

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstance shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction

**PRELIMINARY OFFICIAL STATEMENT DATED OCTOBER 31, 2023**

**NEW ISSUE — BOOK-ENTRY-ONLY**

**RATINGS:** See “Ratings” herein.

*In the opinion of Special Counsel, assuming the accuracy of certain representations and certifications and the continuing compliance with certain tax covenants, under existing statutes, regulations, rulings and court decisions, the portion of each Purchase Payment made by the City pursuant to the Purchase Agreement and denominated as and comprising interest pursuant to the Purchase Agreement and received by the owners of the Obligations (the “Interest Portion”) is excludable from gross income for federal income tax purposes. Further, the Interest Portion is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals, but in the case of the alternative minimum tax imposed by Section 55(b)(2) of the Internal Revenue Code of 1986, as amended (the “Code”), on applicable corporations (as defined in Section 59(k) of the Code), the Interest Portion will not be excluded from the determination of adjusted financial statement income for tax years beginning after 2022. Special Counsel is further of the opinion that the Interest Portion is exempt from income taxation under the laws of the State of Arizona so long as the Interest Portion is excludable from gross income for federal tax income purposes. See “TAX MATTERS” herein for a description of certain other federal tax consequences of ownership of the Obligations.*

**\$192,170,000\***

**UTILITY SYSTEMS REVENUE OBLIGATIONS, SERIES 2023**

**Evidencing Proportionate Interests of the Holders Thereof in  
Installment Payments of the Purchase Price to be Paid by  
CITY OF MESA, ARIZONA,  
Pursuant to an Installment Purchase Agreement,  
Dated as of December 1, 2023\***

**DRAFT  
09-25-23**

*Dated:* Date of Initial Delivery

*Due:* July 1, as shown on inside front cover page

The Utility Systems Revenue Obligations, Series 2023 (the “Obligations”), are being executed and delivered pursuant to a Trust Agreement, to be dated as of December 1, 2023\*, between the City of Mesa, Arizona (the “City”), and UMB Bank n.a., as trustee (the “Trustee”). The Obligations will be initially issued in book-entry-only, registered form in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), New York, New York. Beneficial interests in the Obligations will be offered for sale in the amount of \$5,000 of principal due on a specific maturity date and integral multiples thereof. The Obligations are being executed and delivered for the purpose of (i) financing the Series 2023 Projects (as defined herein), constituting improvements, additions, and extensions to the System (as defined herein) of the City, and (ii) paying the delivery costs of the Obligations. See “THE OBLIGATIONS – Authorization and Purpose,” and “SOURCES AND USES OF FUNDS.”

Interest on the Obligations will be payable semiannually on January 1 and July 1 of each year, commencing on July 1, 2024\*, until maturity or redemption prior to maturity\*, and principal of the Obligations will be payable in accordance with the maturity schedules set forth on the inside front cover page hereof. So long as the Obligations are in book-entry-only form, principal of and interest on the Obligations will be paid by the Trustee to DTC for credit to the accounts of the DTC participants and, in turn, to the accounts of the owners of beneficial interests in the Obligations (the “Beneficial Owners”). See APPENDIX G – “Book-Entry-Only System.”

**See Inside Front Cover Page for Maturity Schedule and Additional Information**

Certain of the Obligations are subject to redemption prior to their stated maturity dates.\* See “THE OBLIGATIONS – Redemption Provisions,” herein.

The Obligations will evidence undivided proportionate interests of the Holders (as defined herein) thereof in the right to receive certain installments of the Purchase Price (as defined herein) pursuant to the Installment Purchase Agreement, to be dated as of December 1, 2023\* (the “Purchase Agreement”), between the City and the Trustee in its capacity as seller. Principal and interest with respect to the Purchase Agreement, together with principal and interest on outstanding Parity Obligations (as defined herein) and with principal and premium, if any, and interest on any Additional Obligations (as defined in APPENDIX F – “Obligations Documents Summaries”) hereafter executed and delivered, will be payable solely from the Pledged Revenues (as defined herein) derived by the City from the operation of the City’s water, electrical, natural gas, wastewater and solid waste systems (collectively, the “System”); **provided, however, that the Obligations will be junior in lien to the Bonds (as defined herein) issued pursuant to the Master Bond Resolution (as defined herein).** See “SECURITY FOR AND SOURCE OF PAYMENT OF THE OBLIGATIONS” herein. **The Obligations will not be general obligations of the City and will not constitute an indebtedness of the City when computing its bonded indebtedness for purposes of debt limitations imposed by constitutional, Charter or statutory provisions, a charge against the general credit limitations imposed by constitutional, Charter or statutory provisions or against the general credit or taxing power of the City nor a liability of the City for payment of the Obligations other than from the sources described herein.**

The City intends to apply, or has applied, to bond insurance companies (each an “Insurer”) for a municipal bond insurance policy (the “Policy”) for the Obligations. If the Policy is purchased it will be to guarantee the scheduled payments of principal and interest on the Obligations and issued concurrently with the delivery of the Obligations by the Insurer. See “OBLIGATION INSURANCE” and “RISK FACTORS RELATED TO OBLIGATION INSURANCE” herein.

**Proposals for the Obligations may be submitted solely as an electronic bid using the facilities of PARITY® up to and including the hour of [10:00] A.M., Pacific Standard Time, on November \_\_, 2023\*. See “NOTICE INVITING BIDS FOR THE PURCHASE OF OBLIGATIONS” for the Obligations herein.**

The Obligations are offered when, as and if executed and delivered by the Trustee, subject to the approving opinion of Greenberg Traurig, LLP, Phoenix, Arizona, Special Counsel, as to validity of the Obligations and tax status of the Obligations. It is expected that the Obligations will be available for delivery through the facilities of DTC on or about December 7, 2023.\*

*This cover page contains certain information with respect to the Obligations for convenience of reference only. It is not a summary of all material information with respect to the Obligations. Investors are advised to read this entire Official Statement and all appendices to obtain information essential to the making of an informed investment decision with respect to the Obligations.*

\* Subject to change.

**\$192,170,000\***  
**UTILITY SYSTEMS REVENUE OBLIGATIONS, SERIES 2023**  
**Evidencing Proportionate Interests of the Holders Thereof in**  
**Installment Payments of the Purchase Price to be Paid by**  
**CITY OF MESA, ARIZONA,**  
**Pursuant to an Installment Purchase Agreement,**  
**Dated as of December 1, 2023\***

**MATURITY SCHEDULE\***

Maturity (July 1)	Principal Amount	Interest Rate	Price or Yield	CUSIP® (a) (Base No. 590545)
2024	\$ 4,770,000	%	%	
2025	5,100,000			
2026	5,100,000			
2027	4,500,000			
2028	5,000,000			
2029	4,500,000			
2030	4,000,000			
2031	4,000,000			
2032	3,000,000			
2033	3,000,000			
2034	3,000,000			
2035	2,500,000			
2036	4,500,000			
2037	-			
2038	2,500,000			
2039	4,000,000			
2040	5,500,000			
2041	7,600,000			
2042	11,100,000			
2043	14,100,000			
2044	18,100,000			
2045	21,100,000			
2046	20,100,000			
2047	21,100,000			
2048	14,000,000			

\$ \_\_\_\_\_ Term Obligations @ . . % Due July 1, 20 \_\_, at a yield of . . % - CUSIP® (a) No. \_\_\_\_\_

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\* Subject to change.

## **CITY OF MESA**

### **CITY COUNCIL**

John Giles, *Mayor*  
Francisco Heredia, *Vice Mayor*  
Jenn Duff, *Councilmember*  
Mark Freeman, *Councilmember*  
Alicia Goforth, *Councilmember*  
Scott Somers, *Councilmember*  
Julie Spilsbury, *Councilmember*

### **CITY ADMINISTRATIVE OFFICERS**

Christopher Brady, *City Manager*  
Scott Butler, *Assistant City Manager*  
Michael Kennington, *Deputy City Manager and Chief Financial Officer*  
Irma Ashworth, *Finance Director*  
Ryan Wimmer, *City Treasurer*  
Holly Moseley, *City Clerk*

## **SPECIAL SERVICES**

### **SPECIAL COUNSEL**

Greenberg Traurig, LLP  
Phoenix, Arizona

### **FINANCIAL ADVISOR**

Hilltop Securities Inc.  
Phoenix, Arizona

### **TRUSTEE**

UMB Bank, n.a.  
Phoenix, Arizona

## REGARDING THIS OFFICIAL STATEMENT

This Official Statement does not constitute an offering of any security other than the Obligations identified on the cover page hereof. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, and there shall be no sale of the Obligations by any person in any jurisdiction in which it is unlawful to make such offer, solicitation, or sale.

The information set forth herein has been provided by the City of Mesa, Arizona (the “City”), the Maricopa County Assessor’s, Finance and Treasurer’s offices, the State of Arizona Department of Revenue, and other sources which are considered to be reliable and customarily relied upon in the preparation of similar official statements, but such information is not guaranteed as to accuracy or completeness and is not to be construed as the promise or guarantee of the City, or Hilltop Securities Inc., the City’s financial advisor (the “Financial Advisor”). The presentation of information, including tables of utility revenues and expenses, is intended to show recent historical information and is not intended to indicate future or continuing trends in the financial position or other affairs of the City. No person, including any broker, dealer, or salesman, has been authorized to give any information or to make any representations other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by the City. All estimates and assumptions contained herein have been based on the latest information available and are believed to be reliable, but no representations are made that such estimates and assumptions are correct or will be realized. All beliefs, assumptions, estimates, projections, forecasts and matters of opinion contained herein are forward looking statements which must be read with an abundance of caution and which may not be realized or may not occur in the future. The information and any expressions of opinion contained herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City or any of the other parties or matters described herein since the date hereof.

The Obligations will not be registered under the Securities Act of 1933 or the Securities Exchange Act of 1934, both as amended, in reliance upon the exemptions provided thereunder by Sections 3(a)(2) and 3(a)(12), respectively, pertaining to the issuance and sale of municipal securities, nor will the Obligations be qualified under the Securities Act of Arizona in reliance upon various exemptions contained in such act. Neither the Securities and Exchange Commission (the “Commission”) nor any other federal, state, or other governmental entity or agency will have passed upon the accuracy or adequacy of the Official Statement or approved these series of securities for sale.

The City, the Financial Advisor, and Special Counsel (as defined herein) are not actuaries, nor have any of them performed any actuarial or other analysis of the City’s unfunded liabilities under the Arizona State Retirement System, the Arizona Public Safety Personnel Retirement System, or the Elected Officials Retirement Plan.

The City will covenant to provide continuing disclosure as described in this Official Statement under “CONTINUING SECONDARY MARKET DISCLOSURE” and in APPENDIX I – “Form of Continuing Disclosure Undertaking” pursuant to Rule 15c2-12 promulgated by the Commission.

A wide variety of information, including financial information, concerning the City is available from publications and websites of the City and others. Any such information that is inconsistent with the information set forth in this Official Statement should be disregarded. No such information is a part of, or incorporated into, this Official Statement, except as expressly noted herein.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader’s convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement for purposes of Rule 15c2-12 of the Commission.

[Insurance Language]

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**\$192,170,000\***  
**UTILITY SYSTEMS REVENUE OBLIGATIONS,**  
**SERIES 2023**

**Evidencing Proportionate Interests of the Holders Thereof in  
Installment Payments of the Purchase Price to be Paid by  
CITY OF MESA, ARIZONA,  
Pursuant to an Installment Purchase Agreement,  
Dated as of December 1, 2023\***

**NOTICE INVITING BIDS FOR THE PURCHASE OF OBLIGATIONS  
(Electronic Bidding Only)**

**NOTICE IS HEREBY GIVEN** that unconditional bids will be received to and including the hour of [10]:00 a.m., Pacific Standard Time (“PST”), on November 7, 2023\*, by the City of Mesa, Arizona (the “City”), for the purchase of all, but not less than all, of the City’s Utility Systems Revenue Obligations, Series 2023 in the principal amount of \$192,170,000\* (the “Obligations”) as electronic bids using the facilities of PARITY® (“PARITY”). For purposes of the bids received through the electronic bid process, the time as maintained by PARITY shall constitute the official time.

The City reserves the right to cancel or reschedule the sale of the Obligations or alter the terms thereof upon notice given through PARITY at [www.ipreo.com](http://www.ipreo.com) at any time prior to the time bids are to be received. If no legal bid or bids are received for the Obligation on said date (or such later date as is established as provided herein) at the time specified, bids will be received for the Obligations on such other date and at such other time as shall be designated through PARITY as soon as practicable. As an accommodation to the bidders, telephonic, teletyped or emailed notice of the postponement of the sale date or dates or of a change in the principal payment schedule will be given to any bidder who has requested such notice of the City’s Financial Advisor, Hilltop Securities Inc. (the “Financial Advisor”), Janelle Gold (email: [janelle.gold@hilltopsecurities.com](mailto:janelle.gold@hilltopsecurities.com); telephone: (602) 224-7104). Failure of any bidder to receive such telephonic, teletyped or emailed notice shall not affect the legality of the sale.

Any prospective purchaser that intends to submit an electronic bid must submit its electronic bid through the facilities of PARITY. The normal fee for the use of PARITY may be obtained from PARITY, and such fee will be the responsibility of those submitting bids. All bids must be submitted on the official bid form that resides on the PARITY system (the “Official Bid Form”), without alteration or interlineation. All electronic bids must be submitted by [10]:00 a.m., PST, on November 7, 2023\*. Subscription to i-Deal’s BIDCOMP Competitive Bidding System is required in order to submit an electronic bid. Representatives of the City will not confirm any subscription nor be responsible for the failure of any prospective purchaser to subscribe.

An electronic bid made through the facilities of PARITY shall be deemed an irrevocable offer to purchase the Obligations on the terms provided in this Notice Inviting Bids for the Purchase of Obligations (this “Notice”) and shall be binding upon the bidder as if made by a signed, sealed proposal delivered to the City. Neither the City nor the Financial Advisor shall be responsible for any malfunction or mistake made by, or as a result of, the use of the facilities of PARITY, the use of such facilities being the sole risk of the bidder.

If any provisions of this Notice shall conflict with information provided by PARITY as the approved provider of electronic bidding services, this Notice shall control. All electronic bids will be deemed to incorporate the provisions of this Notice and the Official Bid Form. Further information about PARITY, including any fee charged, may be obtained from IPREO at 1359 Broadway, 2nd Floor, New York, New York 10018, Attention: Customer Support (212) 849-5021 and from the following website: [www.newissuehome.i-deal.com](http://www.newissuehome.i-deal.com).

For information purposes only, bidders are requested to state in their electronic bid the “true interest cost” as described under “AWARD AND DELIVERY” herein.

**OBLIGATIONS IN GENERAL**

The Obligations will be dated the date of initial delivery, and will be executed and delivered pursuant to a Trust Agreement, to be dated as of December 1, 2023\* (the “Trust Agreement”), between the City and UMB Bank, n.a. (the “Trustee”), as trustee. Interest on the Obligations will be payable semiannually on January 1 and July 1 of each year, commencing July 1, 2024\*. The Obligations, when issued, will be registered in the name of Cede & Co., as

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\* Subject to change.

registered owner and nominee for The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository for the Obligations through its book-entry system. Purchases of beneficial ownership interests in the Obligations will be made in book-entry form in amounts of \$5,000 of principal due on a specific maturity date, or any integral multiple thereof. Purchasers will not receive certificates representing their beneficial interests in the Obligations. The principal of and interest on the Obligations will be paid by the Trustee to Cede & Co., as long as Cede & Co. is the registered owner of the Obligations. Disbursement of such payments to the DTC Participants is the responsibility of DTC, and disbursement of such payments to the purchasers of beneficial ownership interests in the Obligations is the responsibility of DTC Participants and Indirect Participants, as more fully described in the preliminary official statement relating to the Obligations (the “Preliminary Official Statement”).

Except as otherwise provided under “MODIFICATION OF MATURITY SCHEDULE AND PAR AMOUNT” and “REDEMPTION PROVISIONS – Mandatory Redemption,” the Obligations will mature (or be subject to mandatory redemption) on July 1 in each of the years and in the amounts as follows (the “Maturity Schedule”):

Maturity Date (July 1)*	Principal Amount*	Maturity Date (July 1)*	Principal Amount*
2024	\$ 4,770,000	2037	\$ -
2025	5,100,000	2038	2,500,000
2026	5,100,000	2039	4,000,000
2027	4,500,000	2040	5,500,000
2028	5,000,000	2041	7,600,000
2029	4,500,000	2042	11,100,000
2030	4,000,000	2043	14,100,000
2031	4,000,000	2044	18,100,000
2032	3,000,000	2045	21,100,000
2033	3,000,000	2046	20,100,000
2034	3,000,000	2047	21,100,000
2035	2,500,000	2048	14,000,000
2036	4,500,000		

As described below under the heading “REDEMPTION PROVISIONS – Mandatory Redemption,” bidders may combine maturities into one or more term Obligations. Term Obligations, if any, must consist of the total principal payments of two or more consecutive years and mature in the latest of those years. Serial maturities converted to term Obligations, as specified, must bear the same rate of interest. Any term Obligations will be subject to mandatory redemption in the same principal amounts and on the same dates shown in the maturity schedule above.

#### **MODIFICATION OF MATURITY SCHEDULE AND PAR AMOUNT**

The preliminary aggregate principal amount of the Obligations and the preliminary principal amount of each annual principal payment for the Obligations as set forth in this Notice (collectively, the “Preliminary Amounts”) may be revised before the receipt of electronic bids for their purchase (such revised amounts referred to collectively as the “Revised Amounts”). ANY SUCH REVISIONS WILL BE PUBLISHED ON PARITY NOT LATER THAN 5:00 P.M., PST, ON THE LAST BUSINESS DAY PRIOR TO THE DATE OF SALE. In the event that no such revisions are made, the Preliminary Amounts will constitute the Revised Amounts. Bidders shall submit bids based on the Revised Amounts, and the Revised Amounts will be used to compare bids and select the winning bidder.

The City reserves the right to change the aggregate principal amount of Obligations set forth in this Notice after determination of the winning bidder in an amount not to exceed \$[19,200],000. Further, the City reserves the right to change the maturity schedule set forth in this Notice after determination of the winning bidder, by adjusting one or more principal payments of the Obligations in increments of \$5,000.

As promptly as reasonably possible after the bids are received, the City will notify the winning bidder, if and when award is made, and such entity, upon such notice, shall advise the City of the initial reoffering prices to the public of each maturity of the Obligations (the “Initial Reoffering Prices”). The Initial Reoffering Prices, among other things, will be used by the City to calculate the final principal amount of each annual principal payment for the Obligations (collectively, the “Final Amounts”) to accommodate the objectives of the City. THE WINNING BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES PROPOSED OR THE INITIAL REOFFERING

\* Subject to change. See “MODIFICATION OF MATURITY SCHEDULE AND PAR AMOUNT” herein.



PRICES AS A RESULT OF ANY CHANGES MADE TO THE REVISED AMOUNTS. The dollar amount bid by such entity will be adjusted to reflect changes in the dollar amount of the underwriter's discount and the original issue discount/premium, if any, but will not change the compensation per \$1,000 of aggregate par amount of Obligations from the compensation that would have been received based on the purchase price in the winning bid and the Initial Reoffering Prices. The Final Amounts will be communicated to such entity as soon as possible, but not later than [3]:00 p.m. PST, on the date of the sale.

## REDEMPTION PROVISIONS

*Optional Redemption.* The Obligations maturing before and on July 1, 2033\*, will not be subject to redemption prior to their stated maturity dates. The Obligations maturing on and after July 1, 2034\*, will be subject to optional redemption prior to their stated maturity dates, at the direction of the City, in whole or in part in denominations of \$5,000 or integral multiples thereof from maturities selected by the City, on July 1, 2033\*, and on any date thereafter, at a redemption price equal to the principal amount of Obligations being redeemed plus accrued interest to the date fixed for redemption, without premium.

*Mandatory Redemption.* A bidder may specify that the principal amount of Obligations shall be combined into one or more term Obligations maturing in the years as specified, which are subject to mandatory redemption, by lot, selected by the Trustee annually until payment at maturity in the principal amounts shown in the maturity schedule above at par and accrued interest to the date fixed for redemption, without premium. If so specified, then serial maturities converted into a single term Obligation must bear the same rate of interest. Term Obligations, if any, must consist of the total principal payments of two or more consecutive years and mature in the latest of those years.

*Notice of Redemption.* Not more than 60, nor less than 30, days before any redemption date, the Trustee will cause a notice of any such redemption to be provided to DTC as further described in the Preliminary Official Statement. Such notice may provide that the redemption is conditional upon moneys for payment of the redemption price being held in separate accounts by the Trustee.

## USE OF FUNDS

The Obligations are being executed and delivered to (i) finance the Series 2023 Projects (as described in the Preliminary Official Statement), constituting improvements, additions and extensions to the System (as defined in the Trust Agreement) of the City, and (ii) pay the costs of execution and delivery of the Obligations.

## SECURITY AND SOURCE OF PAYMENT

The Obligations represent undivided proportionate interests in the installment payments (the "Purchase Payments") to be made by the City pursuant to an Installment Purchase Agreement, to be dated as of December 1, 2023\* (the "Purchase Agreement"), between the City and the Trustee; such Purchase Payments include amounts sufficient to pay when due the principal of an interest on the Obligations. The Obligations will be executed and delivered pursuant to the Trust Agreement. Certain of the Trustee's interests under the Purchase Agreement, including, without limitation, the right to receive the Purchase Payments, will be held by the Trustee for the benefit of the registered owners of the Obligations. Additional descriptions of the terms of the Purchase Agreement and the Trust Agreement are included in the Preliminary Official Statement, and copies of the full text of the Purchase Agreement and the Trust Agreement are available upon request from the Financial Advisor or the City as described in this Notice.

The obligation of the City to make the Purchase Payments under the Purchase Agreement will be payable from and secured by a junior lien on, pledge of, and security interest in the Pledged Revenues (as defined in the Trust Agreement). Pledged Revenues are Revenues (as defined in the Trust Agreement) of the System remaining after deducting Operating Expenses (as defined in the Trust Agreement) subject to certain additions or subtractions under certain circumstances as provided in the Purchase Agreement. No security interest will be held by the Trustee for the benefit of the registered owners of the Obligations in the Series 2023 Projects or the System.

Such lien on, pledge of and security interest in the Pledged Revenues is on a parity with outstanding Parity Obligations (as defined in the Trust Agreement) and will be on parity with any Additional Obligations (as defined in the Trust Agreement) subsequently issued or incurred as provided in the Purchase Agreement.

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\* Subject to change.

Pursuant to the Master Bond Resolution (as defined in the Trust Agreement), the City previously issued various series of its utility systems revenue bonds and utility systems revenue refunding bonds (as defined in the Master Bond Resolution, the “Bonds,” which is also inclusive of utility systems revenue bonds that may be issued on a parity in the future). So long as the Bonds are outstanding under the Master Bond Resolution, the City will apply certain revenues of the System first to pay debt service on the Bonds, reimburse Reserve Fund Guarantors (as defined in the Master Bond Resolution) pertaining to the Bonds, if any, fund a Reserve Fund for the Bonds, if then required, make payments to satisfy rebate requirements under the Code (as defined herein) with respect to the Bonds, and fund a Replacement Fund (as described in the Master Bond Resolution), **before and prior to** making any of the Purchase Payments.

The obligation of the City to make the Purchase Payments will be limited to payment from Pledged Revenues from the System, and will in no circumstances constitute a general obligation or a pledge of the full faith and credit of the City, the State or any of its political subdivisions, or require the levy of, or be payable from the proceeds of, any ad valorem property taxes. So long as any amounts due under the Purchase Agreement remain unpaid or unprovided for, the City may not further encumber the Pledged Revenues from the System on a basis equal to the pledge for the Purchase Agreement unless certain requirements are satisfied.

### BID DETAILS AND PARAMETERS

*Form of Bids.* Bids for the Obligations must be unconditional, and for not less than the entire offering of the Obligations. By submitting a bid, each bidder agrees to all of the terms and conditions of this Notice (including any amendments issued by the City through PARITY and i-Deal Prospectus). Bids must be submitted electronically PARITY. Bids may not be withdrawn or revised after the time that bids are due.

*Interest Rates Bid.* Interest on the Obligations is payable commencing on July 1, 2024\*, and thereafter on January 1 and July 1 of each year. Interest is calculated on the basis of a 30-day month and 360-day year from the date of the Obligations. Bids may specify any number of interest rates in multiples of one-eighth of one percent (1/8 of 1 percent) or one-twentieth of one percent (1/20 of 1 percent). All Obligations of the same maturity must bear interest at the same rate and no Obligation shall bear interest at more than one rate. **No rate of interest may exceed 6.00% per annum, and the interest rate for the Obligations maturing on or after July 1, 2038 must not be below 5.00% per annum.** The highest rate bid may not exceed the lowest rate bid by more than 3.00%.

*Premium and Discount.* No bid will be considered for a price that is less than 100 percent of the aggregate par value of the Obligations.

### ESTABLISHMENT OF ISSUE PRICE\*

- (a) The winning bidder shall assist the City in establishing the issue price of the Obligations and shall execute and deliver to the City on the date of execution and delivery of the Obligations (the “Closing Date”) an “issue price” or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Obligations, together with the supporting pricing wires or equivalent communications, substantially in the form attached as the Exhibit to this Notice, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City, the Financial Advisor, and Greenberg Traurig, LLP (“Special Counsel”).
- (b) The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the Obligations) will apply to the initial sale of the Obligations (the “competitive sale requirements”) because:
  - (1) the City shall disseminate this Notice to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
  - (2) all bidders shall have an equal opportunity to bid;
  - (3) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and

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\* Note: 10% test or hold-the-offering-price rule may apply if competitive sale requirements are not satisfied.

- (4) the City anticipates awarding the sale of the Obligations to the bidder who submits a firm offer in conformance with this Notice to purchase the Obligations at a price that produces the lowest true interest cost to the City, as set forth in this Notice under the heading “AWARD AND DELIVERY.”

Any bid submitted pursuant to this Notice shall be considered a firm offer for the purchase of the Obligations, as specified in the bid.

- (c) In the event that the competitive sale requirements are not satisfied, the City shall so advise the winning bidder. The City may determine to treat (i) the first price at which 10% of a maturity of the Obligations (the “10% test”) is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the Obligations as the issue price of that maturity (the “hold-the-offering-price rule”), in each case applied on a maturity-by-maturity basis (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity). The winning bidder shall advise the City if any maturity of the Obligations satisfies the 10% test as of the date and time of the award of the Obligations. The City shall promptly advise the winning bidder, at or before the time of award of the Obligations, which maturities (and if different interest rates apply within a maturity, which separate CUSIP number within that maturity) of the Obligations shall be subject to the 10% test or shall be subject to the hold-the-offering-price rule. Bids will not be subject to cancellation in the event that the City determines to apply the hold-the-offering-price rule to any maturity of the Obligations. Bidders should prepare their bids on the assumption that some or all of the maturities of the Obligations will be subject to the hold-the-offering-price rule in order to establish the issue price of the Obligations.
- (d) By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the Obligations to the public on or before the date of award at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder and (ii) agree, on behalf of the underwriters participating in the purchase of the Obligations, that the underwriters will neither offer nor sell unsold Obligations of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:
  - (1) the close of the fifth (5th) business day after the sale date; or
  - (2) the date on which the underwriters have sold at least 10% of that maturity of the Obligations to the public at a price that is no higher than the initial offering price to the public.

The winning bidder will advise the City promptly after the close of the fifth (5th) business day after the sale date whether it has sold 10% of that maturity of the Obligations to the public at a price that is no higher than the initial offering price to the public.

- (e) If the competitive sale requirements are not satisfied, then until the 10% test has been satisfied as to each maturity of the Obligations, the winning bidder agrees to promptly report to the City the prices at which the unsold Obligations of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until either (i) all Obligations of that maturity have been sold or (ii) the 10% test has been satisfied as to the Obligations of that maturity, provided that, the winning bidder’s reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the City or Special Counsel.
- (f) The City acknowledges that, in making the representations set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the requirements for establishing issue price of the Obligations, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Obligations, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Obligations to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the Obligations, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Obligations, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Obligations to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the Obligations, including, but not limited to, its agreement to

comply with the hold-the-offering-price rule, if applicable to the Obligations, as set forth in the third-party distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing issue price of the Obligations, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Obligations, and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement to comply with its corresponding agreement to comply with the requirements for establishing issue price of the Obligations, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Obligations.

(g) By submitting a bid, each bidder confirms that:

(1) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the bidder is a party) relating to the initial sale of the Obligations to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable:

(A)(i) to report the prices at which it sells to the public the unsold Obligations of each maturity allocated to it, whether or not the Closing Date has occurred, until either all Obligations of that maturity allocated to it have been sold or it is notified by the winning bidder that the 10% test has been satisfied as to the Obligations of that maturity, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the winning bidder, and (ii) to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder and as set forth in the related pricing wires,

(B) to promptly notify the winning bidder of any sales of Obligations that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Obligations to the public (each such term being used as defined below), and

(C) to acknowledge that, unless otherwise advised by the underwriter, dealer or broker-dealer, the winning bidder shall assume that each order submitted by the underwriter, dealer or broker-dealer is a sale to the public.

(2) any agreement among underwriters or selling group agreement relating to the initial sale of the Obligations to the public, together with the related pricing wires, contains or will contain language obligating each underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Obligations to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold Obligations of each maturity allocated to it, whether or not the Closing Date has occurred, until either all Obligations of that maturity allocated to it have been sold or it is notified by the winning bidder or such underwriter that the 10% test has been satisfied as to the Obligations of that maturity, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the winning bidder or such underwriter, and (B) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder or the underwriter and as set forth in the related pricing wires.

(h) Sales of any Obligations to any person that is a related party to an underwriter participating in the initial sale of the Obligations to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this Notice. Further, for purposes of this Notice:

(1) “public” means any person other than an underwriter or a related party,

(2) “underwriter” means (i) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Obligations to the public and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Obligations to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Obligations to the public),

- (3) a purchaser of any of the Obligations is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) at least 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and
- (4) “sale date” means the date that the Obligations are awarded by the City to the winning bidder.

### **RIGHT OF REJECTION**

The City Council of the City, the Deputy City Manager and Chief Financial Officer of the City or the designees of any of them reserve the right to reject any and all bids and to waive any irregularity or informality in any bid, except that the time for receiving bids shall be of the essence.

### **AWARD AND DELIVERY**

Unless all bids are rejected or the receipt of bids is continued, the award of the Obligations will be made not later than 11:59 p.m., PST, on November \_\_, 2023. The Obligations will be sold to the bidder submitting a bid in conformance with this Notice that produces the lowest true interest cost to the City, based on the bid price, the interest rates specified in the bid and the principal amounts identified in this Notice. The true interest cost will be the rate necessary, on a 30/360 basis and semiannual compounding, to discount the debt service payments from the payment dates to the date of the Obligations and to the price bid. The true interest cost calculations will be performed by the Financial Advisor, and the City will base its determination of the best bid solely on such calculations. (See “BID DETAILS AND PARAMETERS.”) Delivery of the Obligations will be made to the purchaser through the facilities of DTC upon payment in federal or immediately available funds, at the offices of Special Counsel, or, at the purchaser’s request and expense, at any other place mutually agreeable to both the City and the purchaser. The closing of the sale of the Obligations will be on or about December 7, 2023\*, or on such other date as is mutually agreed upon.

### **CANCELLATION**

Pursuant to Arizona law, if within three years from the award of the contract for the purchase of the Obligations any person who was significantly involved in initiating, negotiating, securing, drafting or creating a contract for the purchase of the Obligations on behalf of the City becomes an employee or agent of the winning bidder in any capacity or a consultant to the winning bidder with respect to the contract for the purchase of the Obligations, the City may cancel the award of the contract without penalty or further obligation by the City and refuse to deliver the Obligations to the winning bidder. In addition to such cancellation, if such person becomes an employee or agent of such entity with respect to the contract for the purchase of the Obligations, the City may recoup any fees or commissions paid or due to the winning bidder with respect to the award to the winning bidder and the actual sale of the Obligations.

### **GOOD FAITH DEPOSIT**

The winning bidder for the Obligations shall deliver a good faith deposit in the amount of \$ \_\_,000 to the City, as instructed by the City. The good faith deposit must be paid by federal funds wire transfer delivered no later than four hours following the winning bidder’s receipt of the verbal award. Wiring instructions will be provided to the winning bidder at the time of the verbal award. If not so received, the bid of the lowest bidder will be rejected and the City may direct the second lowest bidder to submit a Good Faith Deposit and thereafter may award the sale of the Obligations to the same. The good faith deposit will be retained by the City as security for the performance of the winning bidder and shall be applied to the purchase price of the Obligations upon delivery of the Obligations to the winning bidder. Pending delivery of the Obligations, the good faith deposit may be invested for the sole benefit of the City. If the Obligations are ready for delivery and the winning bidder fails or neglects to complete the purchase within 30 days following acceptance of its bid, the good faith deposit shall be retained by the City as reasonable liquidated damages, and not as a penalty.

Such retention will constitute a full release and discharge of all claims by the City against the winning bidder and, in that event, the City may call for additional bids. The City’s actual damages may be higher or lower than the amount of such good faith deposit. Such amount constitutes a good faith estimate of the City’s actual damages. Each bidder waives the right to claim that actual damages arising from such default are less than such amount.

## LEGAL OPINION

The Obligations are sold with the understanding that the City will furnish the purchaser with the approving opinion of Special Counsel. Special Counsel has been retained by the City to render its opinion only upon the legality of the Obligations under Arizona law and on tax matters with respect to the Interest Portion (as defined herein, the delivery of said opinion being a condition precedent to the delivery of the Obligations and the purchase thereof. (See “TAX EXEMPTION.”) The fees of Special Counsel will be paid from proceeds of the sale of the Obligations. Except to the extent necessary to issue its approving opinion as to validity of the Obligations, Special Counsel has not been requested to examine or review, and has not examined or reviewed, any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the Obligations and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials. In submitting a bid for the Obligations, the bidder agrees to the representation of the City by Special Counsel. See “LEGAL MATTERS” in the Preliminary Official Statement and Appendix H – “Form of Approving Legal Opinion” to the Preliminary Official Statement.

## TAX EXEMPTION

The Internal Revenue Code of 1986, as amended (the “Code”), includes requirements which the City must continue to meet with respect to the Obligations after the execution and delivery thereof in order that the portion of each of the Payments made by the City pursuant to the Purchase Agreement and denominated as and comprising interest pursuant to the Purchase Agreement and received by the Owners of the Obligations (the “Interest Portion”) not be included in gross income for federal income tax purposes. The failure by the City to meet these requirements may cause the Interest Portion to be included in gross income for federal income tax purposes retroactively to the date of execution and delivery of the Obligations. The City has covenanted in the Purchase Agreement to take the actions required by the Code in order to maintain the exclusion for federal income tax purposes of the Interest Portion.

In the opinion of Special Counsel to be rendered with respect to the Obligations on the date of execution and delivery of the Obligations, assuming the accuracy of certain representations and certifications of the City and continuing compliance by the City with the tax covenants referred to above, under existing statutes, regulations, rulings and court decisions, the Interest Portion will be excluded from gross income for federal income tax purposes and will be exempt from Arizona income taxation so long as the Interest Portion is excludable from gross income for federal income tax purposes. The Interest Portion will not be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals, but in the case of the alternative minimum tax imposed by Section 55(b)(2) of the Code on applicable corporations (as defined in Section 59(k) of the Code), the Interest Portion will not be excluded from the determination of adjusted financial statement income for tax years beginning after 2022.

Except as described above, Special Counsel will express no opinion regarding the federal income tax consequences resulting from the receipt or accrual of the Interest Portion, or the ownership or disposition of the Obligations. Prospective purchasers of the Obligations should be aware that the ownership of the Obligations may result in other collateral federal tax consequences, including (i) the denial of a deduction for interest on indebtedness incurred or continued to purchase or carry the Obligations or, in the case of a financial institution, that portion of an owner’s interest expense allocable to interest on an Obligation; (ii) the reduction of the loss reserve deduction for property and casualty insurance companies by the applicable statutory percentage of certain items, including the Interest Portion; (iii) the inclusion of the Interest Portion in the earnings of certain foreign corporations doing business in the United States for purposes of the branch profits tax; (iv) the inclusion of the Interest Portion in passive investment income subject to federal income taxation of certain Subchapter S corporations with Subchapter C earnings and profits at the close of the taxable year; (v) the inclusion of the Interest Portion in the determination of the taxability of certain Social Security and Railroad Retirement benefits; (vi) net gain realized upon the sale or other disposition of property such as the Obligations generally must be taken into account when computing the Medicare tax with respect to net investment income or undistributed net investment income, as applicable, imposed on certain high income individuals and specified trusts and estates; and (vii) receipt of certain investment income, including the Interest Portion, is considered when determining qualification limits for obtaining the earned income credit provided by Section 32(a) of the Code. The nature and extent of the other tax consequences described above will depend on the particular tax status and situation of each owner of the Obligations. Prospective purchasers of the Obligations should consult their own tax advisors as to the impact of these and any other tax consequences.

See “TAX MATTERS” in the Preliminary Official Statement.

## **CERTIFICATES TO BE DELIVERED**

In connection with the initial execution and delivery of the Obligations, representatives of the City will deliver a certificate certifying that no litigation is pending affecting the sale and execution and delivery of the Obligations, an arbitrage certificate covering expectations concerning the use of proceeds from the sale of the Obligations and related matters and a certificate regarding the accuracy of the hereinafter described final official statement for the Obligations.

## **CUSIP IDENTIFICATION NUMBERS**

It is anticipated that CUSIP identification numbers will be printed on the Obligations; however, neither the failure to print CUSIP numbers on any Obligation nor any error with respect thereto will constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Obligations. The Financial Advisor will obtain CUSIP numbers. The charge of the CUSIP Service Bureau shall be paid by the City.

## **PRELIMINARY OFFICIAL STATEMENT DEEMED FINAL; DELIVERY OF OFFICIAL STATEMENT**

The City deems the Preliminary Official Statement to be final as of its date, except for the omission of the offering prices or yields, the interest rates and any other terms or provisions required by the City to be specified in bids for the Obligations, and other terms of the Obligations depending on such matters. The winning bidder shall supply the Deputy City Manager and Chief Financial Officer of the City, within 24 hours after the award of the Obligations, all necessary pricing information and any underwriter identification necessary to complete the final official statement to be used in connection with the sale of the Obligations.

Promptly after receiving such information, the City will prepare such final official statement in substantially the same form as the Preliminary Official Statement, subject to any amendments which the City believes should be made in such final official statement.

The City will provide the winning bidder with such final official statements within seven (7) business days of the award of the Obligations. Such final official statements will be provided to the winning bidder electronically. No hard copies of such final official statement will be provided to the winning bidder.

## **CONTINUING DISCLOSURE**

The City, as the “obligated person” with respect to the Obligations, will covenant for the benefit of the owners of the Obligations to provide certain financial information and operating data relating to the City by not later than February 1 in each year commencing February 1, 2024 (the “Annual Reports”), and to provide notices of the occurrence of certain enumerated events (the “Notices of Listed Events”). The Annual Reports and the Notices of Listed Events will be filed by the City through the Electronic Municipal Market Access System. These covenants will be made in order to assist the purchaser in complying with the Securities and Exchange Commission Rule 15c2-12(b)(5) (the “Rule”), and the form of the undertaking necessary pursuant to the Rule is included as Appendix I – “Form of Continuing Disclosure Undertaking” to the Preliminary Official Statement. A failure by the City to comply with these covenants, including due to failure to appropriate for such purposes, must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Obligations in the secondary market. See “CONTINUING SECONDARY MARKET DISCLOSURE” in the Preliminary Official Statement.

## **FURTHER INFORMATION**

Further information, including copies of the Trust Agreement, Purchase Agreement and the Preliminary Official Statement, may be obtained from the City of Mesa: Deputy City Manager and Chief Financial Officer at (480) 644-3606, or from Hilltop Securities Inc., Financial Advisor to the City: Janelle Gold (by telephone (602) 224-7104 or by email: [janelle.gold@hilltopsecurities.com](mailto:janelle.gold@hilltopsecurities.com)).

DATED: November 7, 2023

/s/ Michael Kennington  
Michael Kennington,  
Deputy City Manager and Chief Financial Officer  
City of Mesa, Arizona

**EXHIBIT TO NOTICE**

**ISSUE PRICE CERTIFICATE**

**\$ \_\_,000  
UTILITY SYSTEMS REVENUE OBLIGATIONS,  
SERIES 2023**

**Evidencing Proportionate Interests of the Holders Thereof in  
Installment Payments of the Purchase Price to be Paid by  
CITY OF MESA, ARIZONA,  
Pursuant to an Installment Purchase Agreement,  
Dated as of December 1, 2023\***

The undersigned, on behalf of [NAME OF UNDERWRITER/REPRESENTATIVE] [{"(SHORT NAME OF UNDERWRITER)"}] [(the "Representative")] [, on behalf of itself and [NAMES OF OTHER UNDERWRITERS] (together, the "Underwriting Group")] hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the "Obligations").

**[Alternative 1-Competitive Sale Rule applies]**

**1. [Reasonably Expected Initial Offering Price.]**

(a) As of the Sale Date, the reasonably expected initial offering prices of the Obligations to the Public by [SHORT NAME OF UNDERWRITER] are the prices listed in Schedule A (the "Expected Offering Prices"). The Expected Offering Prices are the prices for the Maturities of the Obligations used by [SHORT NAME OF UNDERWRITER] in formulating its bid to purchase the Obligations. Attached as Schedule B is a true and correct copy of the bid provided by [SHORT NAME OF UNDERWRITER] to purchase the Obligations.

(b) [SHORT NAME OF UNDERWRITER] was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by [SHORT NAME OF UNDERWRITER] constituted a firm offer to purchase the Obligations.]

**[Alternatives 2-4 are available choices if Alternative 1 does not apply] [Note that Alternative 3 [where two rules apply] involves portions of Sections 1, 2(a) and 2(b) and Alternative 4 involves portions of 2(a) and 2(b)]**

[1. ***Sale of the Obligations.*** **[Alternative 2 – All Maturities Use General Rule:** As of the date of this certificate, for each Maturity of the Obligations, the first price at which at least 10% of such Maturity of the Obligations was sold to the Public is the respective price listed in Schedule A.][**Alternative 3 – Select Maturities Use General Rule: *Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity of the Obligations was sold to the Public is the respective price listed in Schedule A.]

**2. [Initial Offering Price of the [Obligations]][Hold-the-Offering-Price Maturities].]**

(a) [**Alternative 4 – All Maturities Use Hold-the-Offering-Price Rule:** [SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Obligations to the Public for purchase at the respective initial offering prices listed in Schedule A (the "Initial Offering Prices") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Obligations is attached to this certificate as Schedule B.] [**Alternative 3 – Select Maturities Use Hold-the-Offering-Price Rule:** [SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Hold- the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the "Initial Offering Prices") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Obligations is attached to this certificate as Schedule B.]



(b) **[Alternative 4 – All Maturities use Hold-the-Offering-Price Rule:** As set forth in the Notice Inviting Bids for the Purchase of Obligations and bid award, [SHORT NAME OF UNDERWRITER][the members of the Underwriting Group] [has][have] agreed in writing that, (i) for each Maturity of the Obligations, [it][they] would neither offer nor sell any of the Obligations of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Obligations at a price that is higher than the respective Initial Offering Price for that Maturity of the Obligations during the Holding Period.] **[Alternative 3 - Select Maturities Use Hold-the-Offering-Price Rule:** As set forth in the Notice Inviting Bids for the Purchase of Obligations and bid award, [SHORT NAME OF UNDERWRITER][the members of the Underwriting Group] [has][have] agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, [it][they] would neither offer nor sell any of the Obligations of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Obligations during the Holding Period.]

[2.][3.] **Total Issue Price.** The total of the issue prices of all the Maturities is \$.....

[2.][4.] **Defined Terms.**

[(a) *General Rule Maturities* means those Maturities of the Obligations listed in Schedule A hereto as the “General Rule Maturities.”]

[(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Obligations listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”]

[(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([DATE]), or (ii) the date on which the [SHORT NAME OF UNDERWRITER][the Underwriters] [has][have] sold at least 10% of such Hold-the- Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering- Price Maturity.]

(a) *Issuer* means the City of Mesa, Arizona.

(b) *Maturity* means the Obligations with the same credit and payment terms. The Obligations with different maturity dates, are treated as separate Maturities.

(c) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of the Obligations generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(d) The *Sale Date* of the Obligations is November \_\_, 2023\*.

(e) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Obligations to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Obligations to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Obligations to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [SHORT NAME OF UNDERWRITER/REPRESENTATIVE]’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate Relating To Federal Tax Matters of the Issuer and with

respect to compliance with the federal income tax rules affecting the Obligations, and by Greenberg Traurig, LLP, as Special Counsel, in connection with rendering its opinion that the interest on the Obligations is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Obligations.

[UNDERWRITER/REPRESENTATIVE]

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

Authorized Representative

Dated: [Closing Date]

**SCHEDULE A**  
**[EXPECTED OFFERING PRICES] [SALE PRICES]**  
**(ATTACHED)**

**SCHEDULE B**  
**[COPY OF UNDERWRITER'S BID] (ATTACHED)**

## OFFICIAL STATEMENT

### **\$192,170,000\*** **UTILITY SYSTEMS REVENUE OBLIGATIONS,** **SERIES 2023**

#### **Evidencing Proportionate Interests of the Holders Thereof in Installment Payments of the Purchase Price to be Paid by CITY OF MESA, ARIZONA, Pursuant to an Installment Purchase Agreement, Dated as of December 1, 2023\***

### INTRODUCTORY STATEMENT

This Official Statement, which includes the cover page, inside front cover page and appendices hereto, has been prepared by the City of Mesa, Arizona (the “City”), in connection with the original execution and delivery of \$192,170,000\* Utility Systems Revenue Obligations, Series 2023 (the “Obligations”), evidencing proportionate interests of the registered owners of each Obligation (the “Holders”), in certain installment payments (the “Purchase Payments” and collectively, the “Purchase Price”) to be paid by the City pursuant to an Installment Purchase Agreement, to be dated December 1, 2023\* (the “Purchase Agreement”), between UMB Bank, n.a. (the “Trustee”), in its capacity as seller, and the City. The Obligations will be executed and delivered pursuant to a Trust Agreement, to be dated as of December 1, 2023\* (the “Trust Agreement”), between the City and the Trustee in its capacity as trustee thereunder. Certain information concerning the authorization, purpose, terms, conditions of sale, security for and sources of payment of the Obligations is set forth in this Official Statement.

All financial and other information presented in this Official Statement has been provided by the City from its records, except for information expressly attributed to other sources. The presentation of information, including tables of receipts from taxes and other sources, is intended to show recent historical information and is not intended to indicate future or continuing trends in the financial position, results of operations, or other affairs of the City. No representation is made that past experience, as shown by such financial or other information, will necessarily continue or be repeated in the future.

Reference to provisions of Arizona law, whether codified in the Arizona Revised Statutes or uncodified, or the Arizona Constitution, or the Charter of the City (the “Charter”) are references to those provisions in their current form. Those provisions may be amended, repealed, or supplemented.

Certain words and terms used herein and not otherwise defined herein shall have the meanings ascribed to such words and terms in APPENDIX E – “Summary of the Master Bond Resolution, As Amended – Definitions.” For certain provisions of the Purchase Agreement and the Trust Agreement, see also APPENDIX F – “Obligations Documents Summaries.”

As used in this Official Statement, “debt service” means principal of and interest on the obligations, “County” means Maricopa County, Arizona, and “State” or “Arizona” means the State of Arizona.

### THE OBLIGATIONS

#### **Authorization and Purpose**

The Trustee will be authorized to execute and deliver the Obligations pursuant to the provisions of the Trust Agreement and Purchase Agreement, and a resolution adopted by the City Council of the City on October 16, 2023\* (the “Resolution”).

The Obligations are being executed and delivered for the purpose of (i) financing the water, wastewater, natural gas, and electrical systems (collectively, the “Series 2023 Projects”), constituting improvements, additions, and extensions to the System (as defined herein) of the City and (ii) paying the delivery costs of the Obligations. See “SOURCES AND USES OF FUNDS” herein.

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\* Subject to change.

Set forth in the table below is a listing of the Series 2023 Projects expected to be funded with proceeds of the Obligations and estimates of their respective costs.

Projects to be Funded	Estimated Cost *
Water System Improvements	\$111,000,000
Wastewater System Improvements	56,000,000
Natural Gas System Improvements	32,000,000
Electric System Improvements	3,000,000
Total	<u>\$202,000,000</u>

**Other Expected Debt Offerings**

In addition to the Obligations, the City expects to offer \$82,595,000\* General Obligation Bonds, Series 2023 (the “2023 GO Bonds”) pursuant to a separate official statement in October 2023\*.

**General Provisions**

The Obligations will be dated the date of initial delivery and will bear interest from such date payable initially on July 1, 2024\* and semiannually thereafter on July 1 and January 1 of each year (each an “Interest Payment Date”) until maturity or prior redemption. The Obligations will mature on the dates and in the principal amounts and will bear interest at the rates set forth on the inside front cover page of this Official Statement.

Initially, the Obligations will be administered under a book-entry-only system (the “Book-Entry-Only System”) by The Depository Trust Company (“DTC”), New York, New York, a registered securities depository. Unless and until the Book-Entry-Only System is discontinued, the Obligations will be registered in the name of Cede & Co., as nominee of DTC. Beneficial interests in the Obligations will be offered for sale in the amount of \$5,000 of principal due on a specific maturity date and integral multiples thereof, and payments of principal of, and interest on the Obligations will be paid by the Trustee to DTC and, in turn, through participants in the DTC system. See APPENDIX G – “Book-Entry-Only System.”

SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE OBLIGATIONS, REFERENCES IN THIS OFFICIAL STATEMENT TO THE REGISTERED OWNERS OF THE OBLIGATIONS, EXCEPT THOSE UNDER THE HEADINGS AND “TAX MATTERS” WILL MEAN CEDE & CO. AND WILL NOT MEAN THE BENEFICIAL OWNERS OF THE OBLIGATIONS.

If the Book-Entry-Only System is discontinued, interest on the Obligations will be payable by check drawn on the Trustee and mailed on or prior to each Interest Payment Date to the registered owners of the Obligations at the addresses shown on the registration books of the Trustee (the “Obligation Register”) on the fifteenth (15th) day of the month preceding each such Interest Payment Date (the “Record Date”). Principal of the Obligations will then be payable at maturity or upon redemption prior to maturity upon presentation and surrender of the Obligations to the designated corporate trust office of the Trustee. Additionally, if the Book-Entry-Only System is discontinued, payment of interest may also be made by wire transfer upon twenty (20) days’ prior written request delivered to the Trustee specifying a wire transfer address in the continental United States by any owner of at least \$1,000,000 aggregate principal amount of the Obligations. Interest will be computed on the basis of a year comprised of 360 days consisting of 12 months of 30 days each.

**Redemption Provisions\***

*Optional Redemption*

The Obligations maturing on or prior to July 1, 2033, will not be subject to call for redemption prior to maturity. The Obligations maturing on or after July 1, 2034, will be subject to call for redemption prior to maturity, at the option of the City, in whole or in part, on any date on or after July 1, 2033, in increments of \$5,000 of principal amount due on a specific maturity date, in any order of maturity, all as directed by the City, and by lot within a maturity by payment of the principal amount of each Obligation to be redeemed plus interest accrued to the date fixed for redemption, without premium.

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\* Subject to change.

*Mandatory Sinking Fund Redemption*

The Obligations maturing on July 1 of the following years will be redeemed from funds of the City prior to maturity on the following redemption dates and in the following amounts, by the payment of the redemption price equal to of the principal amount of the Obligations called for redemption plus accrued interest, if any, on the Obligations so redeemed from the most recent Interest Payment Date to the date of redemption, but without premium:

Redemption Date (July 1)	Principal Amount
Obligations Maturing in 20__	
20__	\$ __,000
20__	__,000
20__	__,000
20__ (maturity)	__,000

Whenever Obligations are redeemed (other than pursuant to mandatory redemption) or are delivered to the Trustee for cancellation, the principal amount of the Obligations so retired shall satisfy and be credited against the mandatory redemption requirements for such Obligations for such years as the City may direct.

*Notice of Redemption*

So long as the Obligations are held under the Book-Entry-Only System, notices of redemption will be sent to DTC, in the manner required by DTC. If the Book-Entry-Only System is discontinued, notice of redemption of any Obligation will be mailed to the registered owner of the Obligation or Obligations being redeemed at the address shown on the Obligation Register not more than sixty (60) nor less than thirty (30) days prior to the date set for redemption. Failure to properly give notice of redemption shall not affect the redemption of any Obligation for which notice was properly given. Notice of redemption may be sent to any securities depository by mail, facsimile transmission, wire transmission or any other means of transmission of the notice generally accepted by the respective securities depository. Notice of any redemption will also be sent to the Municipal Securities Rulemaking Board (the “MSRB”), currently through the MSRB’s Electronic Municipal Market Access system (“EMMA”), in the manner required by the MSRB, but no defect in said further notice or record nor any failure to give all or a portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed above.

If moneys for the payment of the redemption price and accrued interest are not on deposit with the Trustee to effect such redemption, such redemption shall be conditional on such moneys being so held on or prior to the date set for redemption and if not so held by such date the redemption shall be cancelled and be of no force and effect. The notice of redemption shall describe the conditional nature of the redemption.

*Effect of Call for Redemption*

Notice of redemption having been given in the manner described above, the Obligations or portions thereof called for redemption will become due and payable on the redemption date and if an amount of money sufficient to redeem all the Obligations or portions thereof called for redemption is held in separate accounts by the Trustee, then the Obligations or portions thereof called for redemption will cease to bear interest from and after such redemption date.

*Redemption of Less Than All of an Obligation*

The City may redeem an amount which is included in an Obligation in the denomination in excess of, but divisible by, \$5,000. Upon surrender of any Obligation redeemed in part only, the Trustee shall execute and deliver to the registered owner thereof a new Obligation equal in principal amount to the unredeemed portion of the Obligation surrendered and of the same maturity.

## SECURITY FOR AND SOURCES OF PAYMENT OF THE OBLIGATIONS

### Security for the Obligations; Obligations Junior to Bonds

For the amounts payable pursuant to the Purchase Agreement (including the Purchase Price), the Trustee, in its capacity as seller, will sell and convey to the City, and the City will purchase from the Trustee the Series 2023 Projects financed with the proceeds of the 2023 Projects Obligations.

The Obligations represent undivided proportionate interests of the Holders thereof in the right to receive the Purchase Payments of the Purchase Price to be paid by the City pursuant to the Purchase Agreement, which includes amounts sufficient to pay when due the principal of and interest on the Obligations. During the term of the Purchase Agreement, the Purchase Payments will be required to be made regardless of damage to the Series 2023 Projects or commercial frustration of purpose, without right of set-off or counterclaim, regardless of any contingencies and whether or not the City possesses or uses its water, electrical, natural gas, wastewater, and solid waste systems (collectively, the “System”). The obligations of the City to make the Purchase Payments will continue until all of the Purchase Payments and all other amounts due under the Purchase Agreement have been paid. No security interest will be held by the Trustee for the benefit of the Holders of the Obligations in any portion of the Series 2023 Projects or the System. Remedies available upon a failure of the City to make the Purchase Payments when due will be limited and will not include acceleration of the Purchase Payments or recourse to the Series 2023 Projects or any portion of the System. For a description of events of default and remedies under the Purchase Agreement, see APPENDIX F – “Obligations Documents Summaries – The Purchase Agreement – Purchase Events of Default” and “– Remedies on Default by City.” For information concerning the System, see APPENDIX C – “City of Mesa, Arizona – Utility Systems Information.”

### Source of Purchase Payments; Obligations Junior to Bonds

The obligation of the City to make the Purchase Payments under the Purchase Agreement will be payable from and secured by a junior lien on, pledge of, and security interest in the Pledged Revenues. “Pledged Revenues” are Revenues of the System remaining after deducting Operating Expenses subject to certain additions or subtractions under certain circumstances as provided in the Purchase Agreement. “Revenues,” when used with regard to the Obligations, Parity Obligations (as defined herein) and Additional Obligations, are all income, moneys and receipts derived by the City from the ownership, use and operation of the System including, without limitation, interest received on, and profits realized from the sale of, investments made with moneys of the System, but excluding (i) any amounts received that the City is contractually required to pay out as reimbursement for acquisition, construction or installation of the System, (ii) the proceeds of the Obligations, Parity Obligations, or any Additional Obligations or the interest received on any proceeds of Parity Obligations or Additional Obligations placed irrevocably in trust to pay, or provide for the payment of, any Obligations, Parity Obligations, or Additional Obligations, or (iii) any non-cash capital contributions received by the City for the use and operation of the System. “Operating Expenses,” when used with regard to the Obligations, Parity Obligations, and Additional Obligations, are the reasonable and necessary costs of operation, maintenance and repair of the System, including salaries, wages, cost of materials and supplies, insurance, and accumulations to cover periodic payment of Operating Expenses and other expenditures purchased by the City at large, such as insurance, gasoline and electrical energy, allocated to the System in the reasonable discretion of the City, but excluding (i) non-cash transactions, including depreciation or loss on disposal or transfer of assets, (ii) principal and interest requirements on the Obligations, Parity Obligations, and Additional Obligations, (iii) payments required to be made by the City for deposit into a debt service reserve account with respect to the Obligations, Parity Obligations, or Additional Obligations, and (iv) any payments required to be made to satisfy the rebate requirements of Section 148(f) of the Internal Revenue Code of 1986, as amended (the “Code”), with respect to the Obligations, Parity Obligations, and Additional Obligations. **So long as the Bonds (as defined herein) are Outstanding under the Master Bond Resolution (each as defined herein), “Pledged Revenues” are Net Revenues (as defined herein) less the payments made by the City pursuant to Section 10(B) of the Master Bond Resolution to the Bond Fund, the Reserve Fund, the Reimbursement Fund and the Rebate Fund (each as defined in the Master Bond Resolution). See APPENDIX E – “Summary of the Master Bond Resolution, As Amended.”**

Such lien on, pledge of and security interest in the Pledged Revenues is on a parity with the \$138,725,000 principal amount of Parity Obligations currently outstanding and will be on parity with any Additional Obligations subsequently issued or incurred under separate documentation in accordance with the Purchase Agreement.

Pursuant to Resolution No. 6362 adopted by the City Council of the City on July 29, 1991, as thereafter supplemented and amended (collectively, the “Master Bond Resolution”), the City has issued its Bonds (as defined in the Master Bond Resolution, and such definition is inclusive of Parity Bonds the City may issue in the future) currently outstanding in the aggregate principal amount of \$1,113,497,515. **Pursuant to the Master Bond Resolution, so long as the Bonds are Outstanding under the Master Bond Resolution, the City will apply certain revenues of the System first to pay debt service on the Bonds, reimburse Reserve Fund Guarantors (as defined in the Master Bond Resolution) pertaining to the Bonds, if any, fund a Reserve Fund for the Bonds, if then required, make payments to satisfy the rebate requirements of the Code with respect to the Bonds, and fund a Replacement Fund (as described in the Master Bond Resolution), before and prior to making any of the Purchase Payments.**

The pledge of, lien on and security interest in the Pledged Revenues will be irrevocably made in the Purchase Agreement and created for the prompt and punctual payment of the principal of and interest on the Obligations, the Parity Obligations, and the Additional Obligations, according to their terms and to make other payments specified. None of the Obligations, the Parity Obligations, or any of the Additional Obligations will be entitled to priority or distinction over any of the others in the application of the Pledged Revenues, regardless of the issuance or incurrence of the Obligations, the Parity Obligations, or any of the Additional Obligations in series or delivery of the Obligations, the Parity Obligations, or any of the Additional Obligations prior to the delivery of the Obligations, the Parity Obligations, or any of the Additional Obligations of that series or regardless of the time or times the Obligations, the Parity Obligations, or the Additional Obligations mature or are called for redemption prior to maturity or otherwise. The Obligations, the Parity Obligations, and the Additional Obligations will be co-equal as to the pledge of and lien on the Pledged Revenues for the payment thereof and will share ratably, without preference, priority, or distinction, as to the source or method of payment or security therefor. See APPENDIX F – “Obligations Documents Summaries.”

*Neither the Obligations nor the obligations of the City pursuant to the Purchase Agreement constitute a debt or a pledge of the full faith and credit of the City, the State, or any political subdivision thereof for constitutional, Charter or statutory purposes. The Obligations do not obligate the City to levy or pledge any form of ad valorem or other taxes. The Obligations are a limited, special obligation of the City secured solely by the Pledged Revenues and otherwise as provided in the Resolution and the Purchase Agreement.*

THE PROCEEDS OF THE OBLIGATIONS ARE NOT PLEDGED TO, NOR DO THEY SECURE, PAYMENT OF THE OBLIGATIONS.

### **Obligation Rate Covenant**

The City has covenanted and agreed in the Purchase Agreement to establish and maintain rates, fees and charges for all services supplied by the System to provide Pledged Revenues fully sufficient, after making reasonable allowance for contingencies and errors in estimates to produce (a) Pledged Revenues in each Fiscal Year equal to at least one hundred twenty percent (120%) of the Principal Requirement and the Interest Requirement on all Obligations, Parity Obligations, and Additional Obligations then Outstanding for the corresponding Bond Year (treating any Variable Interest Rate Obligations as bearing interest at the Assumed Interest Rate and treating any Obligations, Parity Obligations, and Additional Obligations then Outstanding subject to mandatory redemption as maturing on their respective mandatory redemption dates) and (b) Pledged Revenues for the then-current Fiscal Year that, net of the aggregate amounts required to be deposited to the Obligation Fund during such Fiscal Year, will be sufficient to provide at least one hundred percent (100%) of the amounts with regard to any Credit Facility due and owing in such Fiscal Year. **Until the Bonds are no longer Outstanding pursuant to the Master Bond Resolution, the City has covenanted and agreed in the Purchase Agreement to establish and maintain rates, fees and charges for all services supplied by the System to provide (a) Net Revenues in each Fiscal Year equal to at least one hundred twenty percent (120%) of the Principal Requirement and the Interest Requirement on all Obligations, Parity Obligations, and Additional Obligations then Outstanding, plus the principal and interest requirements on all Outstanding Bonds, for the corresponding Bond Year (treating Variable Interest Rate Obligations or any future Parity Bonds issued as Variable Rate Obligations (as defined in the Master Bond Resolution) as bearing interest at the Assumed Interest Rate and Obligations, Parity Obligations, Additional Obligations and Bonds then Outstanding subject to mandatory redemption as maturing on their respective mandatory redemption dates) and (b) an amount of Pledged Revenues for the then-current Fiscal Year which, net of the aggregate amounts to be deposited to the Obligation Fund during such Fiscal Year, will be sufficient to provide at least one hundred percent (100%) of the amounts with regard to any Credit Facility due and owing in such Fiscal Year.**

### **Debt Service Reserve Account: No Current Funding Requirement**

The Trust Agreement establishes the Debt Service Reserve Account within the Obligation Fund for the benefit of the Obligations, but not the Parity Obligations, or Additional Obligations that may be subsequently issued. The Purchase Agreement provides that no deposit needs to be made to the Debt Service Reserve Account unless the Pledged Revenues during any Fiscal Year are less than one hundred seventy five percent (175%) of the Principal Requirement and the Interest Requirement on all Obligations, Parity Obligations, and Additional Obligations then Outstanding for the corresponding Bond Year. In such event, the City will deposit, or cause to be deposited, within 180 days following the end of such Fiscal Year, to the Debt Service Reserve Account moneys, investments, Qualified Reserve Fund Instruments, or any combination thereof, equal to the Reserve Requirement. Also, on the tenth (10th) day of each month, commencing on the first day of the month following a payment made on the Obligations from the Debt Service Reserve Account, the City will deposit an amount equal to one-twelfth (1/12) of the amount which, when added to the balance then in the Debt Service Reserve Account, equals the Reserve Requirement. The Trust Agreement provides that under certain circumstances, the amounts in the Debt Service Reserve Account may be released and used by the City for any lawful purpose. **Until the Bonds are no longer Outstanding pursuant to the Master Bond Resolution, if Net Revenues during any Fiscal Year of the City are less than one hundred seventy-five percent (175%) of the aggregate Principal Requirement and Interest Requirement on all Obligations, Parity Obligations, and Additional Obligations then Outstanding plus the principal and interest requirements on all Bonds then Outstanding for the corresponding Bond Year, then the City will deposit, or cause to be deposited, within 180 days following the end of such Fiscal Year, to the Debt Service Reserve Account, moneys, investments, Qualified Reserve Fund Instruments or any combination thereof, equal to the Reserve Requirement.**

See APPENDIX F – “Obligations Documents Summaries – the Trust Agreement – Debt Service Reserve Account.”

### **Repair and Replacement Fund**

In accordance with the Purchase Agreement, the City previously established the Repair and Replacement Fund, which is held by the City. Amounts in the Repair and Replacement Fund will be used (without priority) for: (i) making extraordinary repairs or replacements to the System which are necessary to keep the System in operating condition and for the making of which provision has not been made in the annual budget and money is not available as an Operating Expense, (ii) making debt service payments on the Obligations, Parity Obligations, or Additional Obligations in the event of a deficiency, (iii) the payment of any sums due and owing to the Holders of the Obligations, Parity Obligations, and Additional Obligations being refunded which sums cannot for any reason be paid from the income and proceeds of any Defeasance Obligations held by a Depository Trustee, (iv) the acquisition of water, electrical, natural gas, wastewater and solid waste properties or facilities deemed necessary by the City to the efficient and economical operation of the System or to extend or improve the System, and (v) otherwise acquiring, constructing and improving the System. The amount required to fund the Repair and Replacement Fund is equal to two percent of the value of all tangible assets of the System at the end of the preceding fiscal year (the “Repair and Replacement Fund Funding Requirement”). **So long as the Bonds are Outstanding, the City is not required to fund the Repair and Replacement Fund.** See APPENDIX F – “Obligations Documents Summaries – the Trust Agreement – The Purchase Agreement – Utilities; Operation and Maintenance of the System in a Responsible Manner; Repair and Replacement Fund.”

### **Outstanding Bonds**

As noted above, the City currently has \$1,113,497,515 outstanding principal amount of prior lien Bonds which were issued or incurred pursuant to the Master Bond Resolution and are payable from and secured by a pledge of and a lien on Net Revenues (as defined in the Master Bond Resolution) which is prior and senior to the claim of the Obligations, Parity Obligations, and any Additional Obligations issued in accordance with the Purchase Agreement. The Obligations, Parity Obligations, and any Additional Obligations will be secured by a pledge of and a lien on Pledged Revenues junior to the claim of the Bonds. For further information on the Bonds, see APPENDIX B – “City of Mesa, Arizona – Financial Data.”

### **Additional Parity Bonds**

The City presently does not intend to issue additional prior lien Parity Bonds (“Additional Parity Bonds”). However, the City may issue Additional Parity Bonds in the future under the Master Bond Resolution in compliance with the following requirements. Additional Parity Bonds may be issued on a parity with the Bonds only if the Net Revenues for the completed Fiscal Year immediately preceding the issuance of the Additional Parity Bonds have been at least equal to one hundred twenty percent (120%) of Maximum Annual Debt Service on all Bonds to be outstanding immediately after



issuance of such Additional Parity Bonds and said Net Revenues must also be sufficient to provide an amount of Net Revenues for the then current Fiscal Year which, net of depreciation and the aggregate amounts required to be deposited to the Bond Fund during such Fiscal Year, will be sufficient to provide at least one hundred percent (100%) of the City's Policy Costs due and owing in such Fiscal Year as shown by a certificate signed by the City's Deputy City Manager and Chief Financial Officer. For the purposes of this computation, additional amounts may be added to the Net Revenues of the preceding Fiscal Year, as follows: (i) if all or part of the proceeds of the Bonds are to be expended for the acquisition of existing water, wastewater, natural gas, electrical or solid waste (garbage and rubbish) properties for the System, there may be added to the Net Revenues of such preceding Fiscal Year the net revenues derived from the operation of such existing water, wastewater, natural gas, electrical or solid waste (garbage and rubbish) system properties during the immediately preceding Fiscal Year as estimated by an engineer or engineering firm which shall have a wide and favorable reputation in respect to such matters, and (ii) if during such preceding Fiscal Year, the City shall have increased its System rates or charges, there may be added to the Net Revenues of such Fiscal Year the increased amount of Net Revenues which would have been received from the operation of the System during such Fiscal Year had such increase been in effect throughout such Fiscal Year, such increased amount of Net Revenues to be estimated by an engineer or engineering firm which shall have a wide and favorable reputation in respect to such matters.

The City may issue Additional Parity Bonds in the future pursuant to existing voted bond authorizations and pursuant to additional supplemental resolutions. They City may seek additional voter authorization in the future.

The City is authorized to issue \$95,918,190 of Additional Parity Bonds, pursuant to voter approval given at special bond elections held on March 29, 1994 and November 4, 2014. The purposes and amounts of such authorized but unissued Additional Parity Bonds are set forth below.

Purpose of Utility Systems Revenue Bond Authorization	Remaining Utility Systems Revenue Bonds		
	1994	2014	Authorized But Unissued (a)
Gas System Improvements	\$ -	\$29,890,000	\$29,890,000
Water System Improvements	-	34,780,402	34,780,402
Wastewater System Improvements	-	30,302,788	30,302,788
Electric System Improvements	-	-	-
Solid Waste System Improvements	945,000	-	945,000
	<u>\$945,000</u>	<u>\$94,973,190</u>	<u>\$95,918,190</u>

(a) Utility Systems Revenue Bonds remaining authorized but unissued from the City's March 29, 1994 special election may, at the option of the City, be issued as either general obligation bonds or utility systems revenue bonds.

### Outstanding Parity Obligations

The City currently has outstanding \$138,725,000 aggregate principal amount comprised of the Utility Systems Revenue Obligations, Series 2021, the Utility Systems Revenue Obligations, Series 2022A, the Utility Systems Revenue Obligations, Taxable Series 2022B and the Utility Systems Revenue Refunding Obligations, Series 2022C (collectively the "Parity Obligations"), which are payable from and secured by a lien on, pledge of and security interest in, the Pledged Revenues on a parity with the Purchase Payments under the Purchase Agreement and payments required for the payment of principal of and premium, if any, and interest on any Additional Obligations. The Purchase Agreement permits the execution and delivery or incurrence of "Additional Obligations" of the City payable from Pledged Revenues on a parity therewith upon meeting certain conditions as described under the following subheading.

### Additional Obligations

Pursuant to the provisions of the Purchase Agreement, the City may, in the future, incur Additional Obligations if there is not any Trust Agreement Event of Default or Purchase Event of Default upon the incurrence thereof and the Pledged Revenues for the completed Fiscal Year immediately preceding the incurrence of such Additional Obligations have been (a) at least equal to one hundred twenty percent (120%) of the Parity Lien Test Debt Service including such Additional Obligations to be issued and (b) sufficient to provide an amount of the Pledged Revenues for the then-current Fiscal Year that, net of the aggregate amounts required to be deposited to the debt service funds established for the Additional Obligations and to the Obligation Fund during such Fiscal Year, will be sufficient to provide at least one hundred percent (100%) of the amounts with regard to any Credit Facility due and owing in such Fiscal Year. "Parity Lien Test Debt

Service” is the highest aggregate Principal Requirement and Interest Requirement of all Obligations, Parity Obligations, and Additional Obligations then Outstanding, including the Additional Obligations to be issued, to fall due and payable in the current or any future Bond Year. **So long as the Bonds are Outstanding under the Master Bond Resolution, clause (a) above is modified to require the Net Revenues for the completed Fiscal Year immediately preceding the incurrence of such Additional Obligations have been at least equal to one hundred twenty percent (120%) of the highest aggregate Principal Requirement and Interest Requirement of all Outstanding Obligations, Parity Obligations, and Additional Obligations, including such Additional Obligations to be incurred, plus the Maximum Annual Debt Service (as defined in the Master Bond Resolution) on all Outstanding Bonds. For purposes of this computation, certain amounts will be added to or subtracted from Net Revenues in accordance with the Purchase Agreement and the Master Bond Resolution. See APPENDIX F – “Obligations Documents Summaries – The Purchase Agreement – Master Bond Resolution.” Furthermore, the payments required to be made into the various funds provided in Section 10 of the Master Bond Resolution must be current, and no Additional Obligations may be incurred without the prior written consent of any Reserve Fund Guarantor (as defined in the Master Bond Resolution) whose Policy Costs are past due and owing.**

### **Referendum and Ordinance**

On April 16, 2019, a political action committee named “Vote Yes on Affordable Utilities” filed an Application for Initiative or Referendum Petition (the “Initiative”) with the City Clerk of the City. The Initiative proposed an amendment to the City Charter of the City to, among other things, establish a limit on the amount of System revenues that could be transferred to the City’s General Fund and provide a mechanism to rebate a portion of System revenues to ratepayers from time to time. The Initiative failed to secure the statutorily required number of petition signatures, and was not considered at the November 2020 general election. The City is unable to determine or predict whether a similar initiative will be filed in the future, obtain enough petition signatures to be placed on a general election ballot or be approved by the voters of the City.

In January of 2020, City staff presented a proposal and ordinance to the City Council to formalize the City’s process of transferring System revenues to the City’s General Fund (the “Utility Transfer Ordinance”). The City Council adopted the Utility Transfer Ordinance in March of that year. The Utility Transfer Ordinance amends the City Code to permit (i) a transfer of System revenues in an amount not to exceed twenty-five percent (25%) of the System revenues to the City’s General Fund for public safety purposes, and (ii) a transfer of System revenues in an amount not to exceed five percent (5%) of the System revenues to the City’s General Fund for other general City purposes. Any such transfer in accordance with the Utility Transfer Ordinance is at the discretion of the City Council. The Utility Transfer Ordinance expressly states that the amendments to the City Code will not affect, limit, or alter the City’s payment obligations or payment priorities relating to the City’s utility systems revenue bonds or obligations.

From time to time, there are legislative proposals (and interpretations of such proposals by courts of law and other entities and individuals) which, if enacted, could alter or amend the property tax system of the State and numerous matters, both financial and non-financial, impacting the operations of political subdivisions of the State which could have a material impact on the City and could adversely affect the secondary market value of the Obligations. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, it would apply to obligations (such as the Obligations) issued prior to enactment.

**COMBINED SCHEDULES OF REVENUES AND DEBT SERVICE COVERAGE**

The following table sets forth a record of the combined schedules of annual revenues, expenditures and Net Revenues for the most recent audited five years ending June 30 and most recently conclude unaudited Fiscal Year for which such information is available – followed by a statement of utility systems revenue bond debt service requirements and debt service coverage provided by such Net Revenues for each Fiscal Year (in thousands). Additionally, Pledged Revenues followed by a statement of obligation debt service requirements are set forth starting Fiscal Year 2020/21, the first such year there was obligation debt service and Pledged Revenues were calculated.

	Audited					Unaudited
	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
<b>System Revenues: (a)</b>						
Electric System	\$ 31,779	\$ 30,714	\$ 30,723	\$ 34,543	\$	\$
Gas System	40,054	47,372	44,209	46,880		
Water System	146,891	129,571	166,834	178,747		
Wastewater System	83,401	87,126	88,147	89,814		
Solid Waste System	59,912	63,328	65,451	64,446		
Total System Revenues	\$362,037	\$358,111	\$395,364	\$414,430	\$	\$
<b>System Expenses: (a)</b>						
Electric System	\$ 20,128	\$ 18,659	\$ 18,925	\$ 22,849	\$	\$
Gas System	22,119	22,574	20,670	30,557		
Water System	42,766	45,349	49,017	58,788		
Wastewater System	24,577	24,546	24,284	27,315		
Solid Waste System	33,169	34,521	37,817	38,737		
Total System Expenses	\$142,759	\$145,649	\$150,713	\$178,246	\$	\$
<b>Net Income Available For</b>						
Debt Service						
Net Revenues	\$219,278	\$212,462	\$244,65	\$236,184	\$	\$
Less Payments Required (b)				-		
Pledged Revenues				\$236,184	\$	\$
<b>Utility Systems Revenue Debt Service</b>						
Bond Requirements (c)	\$ 81,993	\$ 72,741	\$ 91,635	\$93,075	\$	\$
Obligations Requirements				-		
Total Debt Service Requirements				\$93,075	\$	\$
<b>Approximate Net Revenue Coverage</b>						
Bond Debt Service (d)	2.67x	2.92x	2.67x	2.54 x	x	x
Combined Debt Service (e)				2.54 x	x	x

- (a) System revenues include all income, moneys and receipts derived by the City from the ownership, use and operation of the System. Such revenues include operating revenues, interest income and other miscellaneous revenues. System expenses are the reasonable and necessary costs of System operation, maintenance and repair, but exclude depreciation and debt service expenses. System revenues and expenses indicated in the above schedule are set forth on a modified accrual basis, recognizing revenues when they become measurable and available and expenses when incurred.
- (b) Payments required are payments made by the City pursuant to Section 10(B) of the Master Bond Resolution to the Bond Fund, the Reserve Fund, the Reimbursement Fund and the Rebate Fund. See APPENDIX E – “Summary of the Master Bond Resolution, As Amended.”
- (c) Interest on the City’s Taxable Utility Systems Revenue Bonds, Series 2009, which were issued under the Build America Bond program and is shown for Fiscal Years 2017/18 through 2019/20, and the City’s Taxable Utility Systems Revenue Bonds, Series 2010 is shown for Fiscal Years 2017/18 through 2020/21, were without reduction of the federal subsidy payments.

These bonds were issued as taxable bonds under the Build America Bond program for which subsidy payments equal to 35% of the interest payments on such bonds are expected to be made by the federal government. Bonds

issued under the Build America Bonds program have had such subsidy payments reduced due to sequestration reductions imposed by the federal government, any shortfall in the interest payments caused by the reduction is required to be paid by the issuer. The City's remaining Build America Bond program debt was refunded in Fiscal Year 2020/21.

- (d) Reflects the ratio of Net Revenues to debt service requirements on outstanding Bonds under the Master Bond Resolution.
- (e) Reflects the ratio of Net Revenues to combined debt service requirements on the Obligations, the Parity Obligations, and outstanding Bonds under the Master Bond Resolution. So long as the Bonds are Outstanding under the Master Bond Resolution, certain covenants pertaining to the Obligations and the Parity Obligations are modified to be calculated using Net Revenues. See "SECURITY FOR AND SOURCES OF PAYMENT OF THE OBLIGATIONS – Obligation Rate Covenant," "– Debt Service Reserve Account: No Current Funding Requirement," and "– Additional Obligations."

The City expects to annually transfer a portion of the Revenues of the System to the City's General Fund after providing for payment of the current debt service requirements of all Bonds, any Parity Bonds, the Obligations, Parity Obligations, and any Additional Obligations. In Fiscal Year 2022/23, such transfer was approximately \$ \_\_\_\_ million. The City expects to continue this practice in the future.

### **OBLIGATION INSURANCE**

The City intends to apply, or has applied, to bond insurance companies (each an "Insurer") for a municipal bond insurance policy (the "Policy") for the Obligations to guarantee the scheduled payments of principal of and interest on the Obligations. A commitment to provide the Policy has not been issued, and representatives of the City have yet to determine whether, if such commitment is issued, the Policy will be purchased. If the Policy is purchased, the risk factors in "RISK FACTORS RELATED TO OBLIGATION INSURANCE" relate to obligation insurance generally.

### **RISK FACTORS RELATED TO OBLIGATION INSURANCE**

If the City determines to obtain the Policy for the Obligations, in the event of default of the payment of principal or interest with respect to any of the Obligations when all or some become due, any Owner of the Obligations on which such principal or interest was not paid will have a claim under the Policy for such payments. In the event the issuer of the Policy is unable to make payment of principal and interest as such payments become due under the Policy, the Obligations are payable solely from the Pledged Revenues as described under "SECURITY FOR AND SOURCES OF PAYMENT OF THE OBLIGATIONS." In the event the Insurer becomes obligated to make payments with respect to the Obligations, no assurance will be given that such event will not adversely affect the market price of the Obligations and the marketability (liquidity) of the Obligations.

The long-term ratings on the Obligations will be dependent in part on the financial strength of the Insurer and its claims paying ability. The Insurer's financial strength and claims paying ability will be predicated upon a number of factors which could change over time. No assurance will be given that the long-term rating of the Insurer and of the rating on the Obligations insured by the Insurer will not be subject to downgrade, and such event could adversely affect the market price of the Obligations and the marketability (liquidity) of the Obligations. See "RATINGS" herein.

The obligations of the Insurer will be general obligations of the Insurer, and in an event of default by the Insurer, the remedies available may be limited by applicable bankruptcy law, state receivership or other similar laws related to insolvency of insurance companies.

None of the City, the Financial Advisor, or their respective attorneys, agents or consultants have made independent investigation into the claims paying ability of the Insurer and no assurance or representation regarding the financial strength or projected financial strength of the Insurer will be given. Thus, when making an investment decision, potential investors should carefully consider the ability of the City to pay principal of and interest on the Obligations and the claims paying ability of the Insurer, particularly over the life of the investment.

### **RISK FACTORS**

The purchase of the Obligations involves certain investment risks that are discussed throughout this Official Statement. Accordingly, each prospective purchaser of the Obligations should make an independent evaluation of all the information

presented herein. The following factors, along with all other information in this Official Statement, should be considered by potential investors in evaluating the Obligations.

Limited Obligations. The Obligations are limited special obligations of the City payable as to both principal and interest solely from the revenues derived by the City from the Pledged Revenues of the System, junior in lien to the Bonds and not secured by the System. The Obligations do not constitute an indebtedness or pledge of the general credit of the City within the meaning of any constitutional, Charter or statutory provisions relating to the incurring of indebtedness, and the owners of the Obligations shall never have the right to compel any exercise of the taxing power of the City or to demand a payment of the Obligations or interest thereon out of any funds other than from the Pledged Revenues.

Additional Parity Bonds and Additional Obligations of the City. The City has the capacity to enter into other obligations which are payable from certain Revenues of the System and which are on a parity with or senior lien basis to the Obligations. To the extent that Additional Parity Bonds or Additional Obligations are issued or incurred by the City, the funds available to make the debt service payments on the Obligations may be decreased.

Economic Downturns; Adverse Effects on System Revenues. A number of factors, many of which may be beyond the control of the City, could have an adverse impact on the level of Pledged Revenues of the System, including adverse changes in the global and national economies, the Arizona economy, and interest rate levels.

Cybersecurity; Other Safety and Security Risks. Cybersecurity breaches could damage the City's information and security systems and cause material disruption to its operations. The occurrence of military conflicts and terrorist activities, including cyber terrorism, could also adversely impact the operations of the System or the finances of the City. In particular, the continuing Russia/Ukraine war has resulted in several warnings and advisories from the U.S. Department of Homeland Security related to an elevated risk of cyberattacks against municipalities and critical infrastructure. The City maintains active security (including information security) and emergency preparedness programs and has a number of security measures and safeguards in place. However, there can be no assurance that any existing or additional safety and security measures will prove adequate in the event that military conflicts or terrorist activities, including cyber terrorism, or acts of malfeasance are directed against the assets of the System or the information technology systems of the City. The costs of security measures or of remedying damage from security breaches could be greater than presently anticipated.

Costs of System Operation and Availability of Materials and Commodities. The production of Pledged Revenues from the System could be materially adversely affected by the costs of operating, maintaining and repairing the System, including the costs of regulatory compliance, and the availability, price of, and demand for commodities. Pledged Revenues could also be materially adversely affected by other factors beyond the control of the City, such as strikes, energy shortages, material shortages, inflation, pandemics, drought and other adverse weather conditions, changes in federal, state or local law (including, but not limited to the Occupational Safety and Health Act, The Commercial Motor Vehicle Safety Act, the Clean Air Act, the Safe Drinking Water Act, the Clean Water Act, the Arizona Groundwater Code, and the Natural Gas Pipeline Safety Act), changes in international laws and other contingencies. Recent reductions in the demand for recyclable materials, particularly from China, have also impacted the solid waste industry and blue-barrel programs. In addition, there are financial risks associated with purchase of wholesale gas and electric energy and associated transmission capacity, including potential instability of market participants.

Factors Affecting the Utility Industry. The utility industry has been, and in the future may be, affected by a number of factors which could impact electric, gas, water, wastewater, and solid waste utilities. Such factors include, among others: (i) effects of compliance with rapidly changing environmental, health, safety, licensing, regulatory and legislative standards and requirements, (ii) changes resulting from conservation and demand-side management programs on the timing and use of commodities, (iii) "self" or "co-generation" by certain electric customers, (iv) other changes in actual demand from projected future requirements, (v) expansion of competition in the utility industry, (vi) natural disasters such as drought, fires and flooding and (vii) issues relating to issuance of tax-exempt obligations and restrictions thereon. The City cannot predict what effects these factors will have on the business, operations, and financial condition of the System, but they could be significant.

Electric Deregulation, Open Access and Reliability Standards. Beginning in the 1990s, the Arizona legislature adopted statutes, and the Arizona Corporation Commission ("ACC") adopted Administrative Rules, which attempted to establish a framework for competition for the sale of retail electric power in Arizona. However, electric retail competition in Arizona was effectively stopped in large part due to a 2004 Arizona Court of Appeals decision, *Phelps Dodge Corp. v. Arizona Elec. Power Co-Op, Inc.*, 83 P.3d 573 (Ariz. Ct. App. 2004), which among other holdings found parts of the

adopted rules to be unconstitutional. In 2022, the State legislature adopted legislation ending deregulation; however, should deregulation ever be re-initiated and effectively implemented, it may affect the City's electric utility operations.

The Energy Policy Act of 1992 resulted in fundamental changes in the federal laws and regulations related to the electric utility industry, particularly in the area of transmission access. However, the City generally is excluded from the provisions of these laws as it is not a "public utility" as defined therein. Additionally, the City does not have any transmission service or power supply arrangements that would otherwise make it subject to open access transmission service and tariff requirements under the Federal Power Act as amended. However, ongoing efforts to implement a Regional Transmission Organization/Independent System Operator or Administrator in the western region of the United States (including Arizona), which Mesa is statutorily directed to support, may affect the City's electric utility operations and associated costs.

Comprehensive energy legislation was also passed in 2005 (the "2005 Energy Policy Act") which provided in part that an "electric reliability organization" ("ERO") should, subject to Federal Energy Regulatory Commission ("FERC") approval, develop reliability standards for operation of the bulk electric power system. FERC subsequently certified the North American Electric Reliability Council ("NERC") as the nation's ERO and approved various NERC reliability standards. However, the City exclusively provides local distribution of electric energy to retail customer loads and does not currently operate generation resources, interconnections, transmission lines, or other facilities which would make it subject to existing reliability standard compliance requirements, consistent with FERC Order 743A issued in 2011.

Natural Gas Transportation Agreements. Natural gas supplies secured by the City are transported via a major pipeline system owned and operated by the El Paso Natural Gas Company LLC, a Kinder Morgan Company ("EPNG") under the terms and conditions of two transportation service agreements ("TSAs"). Historically, a 1996 settlement with EPNG provides some rate protection to the City from EPNG's published tariff rates. However, the benefits of this settlement have become limited more recently, and as Mesa's transmission needs increase, its associated costs can be expected to increase as well. Additionally, constraints on interstate and regional pipeline transmission capacity have been identified as potential limiting factor to future growth of the gas system.

Impact of Winter Storm Uri on Natural Gas Supplies. In February 2021 parts of North America, including Texas, experienced a significant winter storm ("Winter Storm Uri"). The cost and volatility of natural gas supplies greatly increased for a short period during the storm. Natural gas supplier invoices to the City for the month were approximately eight times the anticipated amounts. The Electric System (as defined in APPENDIX C) was also impacted, though to a lesser extent. The City was successfully able to resolve certain disputed matters with all its gas suppliers, as well as with its interstate transmission supplier. While the City's Natural Gas System (as defined in APPENDIX C) was affected by Winter Storm Uri and certain increased costs were passed through to gas customers, the City does not anticipate that the System or Net Revenues will be materially adversely affected by future events similar to Winter Storm Uri at this time. Nevertheless, the resulting increased costs in both the electric and gas industries, particularly related to the purchase of commodities, as well as the possibility of similar future events and the associated risks thereof, may impact the City's utility operations.

Water Supply and Drought Conditions. Water for the City's System is provided from three general sources: the Salt and Verde River system, the Colorado River via the Central Arizona Project ("CAP") canal, and groundwater wells. In addition, the City has rights to stored groundwater in an amount equal to approximately five times its annual demand to mitigate future drought. The City is designated with a 100-Year Assured Water Supply by the Arizona Department of Water Resources. The City has adequate supplies for growth and has engaged in planning and resource management to provide for current and future availability of water supplies during normal and drought conditions. However, the ability of the City's System to operate effectively may still be significantly impacted by the water supply available to the City, which is situated in a desert environment. In particular, recent conditions on the Colorado River system may be indicative of future challenges, though most of the City's Central Arizona Project water supplies have a relatively high priority. The City is exploring various options based on this recent information regarding Colorado Supplies, including taking steps under its Water Shortage Management Plan as set forth in the Mesa City Code. The initial step, declaring a "Stage One Shortage," primarily involving public relations campaigning regarding voluntary conservation as well as increased water reduction measures at City facilities was recently taken by the City. If the water supply decreases significantly however, whether by physical limitation or regulatory restrictions, prohibitive water costs or otherwise, System water sales may be diminished and Pledged Revenues available to pay the debt service may be adversely affected.

Additionally, decreasing flows throughout the Colorado River system have the ability to substantially reduce hydroelectric power generation. The City's Electric System receives approximately 15% of its annual energy requirements from the Parker-Davis Project, and approximately 4% of its annual energy requirements from the Colorado River Storage Project

(which is primarily sourced from Glen Canyon Dam). Loss of hydroelectric generation from these resources generally implies that WAPA must source replacement power for these resources from the power markets in the Desert Southwest Region; a region already constrained for resource adequacy due to the early retirement of large coal and nuclear generating assets (without in-kind replacement on a firm capacity basis). Additionally, the loss of any generation ability of the Hoover Dam will reduce the region's ability to inexpensively regulate frequency and voltage on WAPA's regional systems. Although the City's allocation of hydroelectric power does not comprise the majority of its annual energy resources, these larger market effects due to the loss or reduction of hydropower can be compounded to negatively affect Mesa's other power purchase costs, its balancing and ancillary services costs, and other generation and transmission costs, potentially adversely affecting Pledged Revenues.

Pending Litigation Involving the Water and Wastewater Utility Operations. The City is a claimant in the pending Arizona General Stream Adjudication (the "Adjudication"), a decades-long judicial proceeding to determine the extent and priority of water rights in the Salt, Gila, and Little Colorado River systems. The City has participated as a party in the settlement of the claims of a number of Native American Communities, including the Gila River Indian Community, the White Mountain Apache Tribe, and the Salt River Pima-Maricopa Indian Community (which borders the City on the north). Although a number of significant claims have been resolved through these settlements, other claims, including those of the City and the Salt River Project (whose claims involve, in part areas which receive City service), remain outstanding, and the future results of the Adjudication could impact City water utility operations.

Environmental Issues Associated with PFAS. On February 28, 2022, the City received a Request for Information from the EPA ("Request") issued under Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"). The Request seeks information regarding City's receipt and treatment of wastewater containing per- and polyfluoroalkyl substances ("PFAS") at one of City's wastewater reclamation facilities in connection with the South Indian Bend Wash National Priorities List site. PFAS are a category of synthetic, hydrophobic, and thermally resistant chemicals used in a variety of commercial and retail applications including certain firefighting foams, non-stick cookware, and water-resistant apparel. PFAS substances are not Hazardous Substances under CERCLA and therefore CERCLA liabilities do not attach to releases of PFAS into the environment. However, City is aware that EPA has communicated its intent to designate certain PFAS chemicals as Hazardous Substances in the future. Notably, EPA has never designated a chemical as a CERCLA Hazardous Substance and City cannot speculate whether EPA will successfully create such a designation or whether that designation will survive legal challenges. Mesa intends to fully comply with all lawful EPA requests for information. The results of EPA efforts regarding PFAS, as well as other potential regulations regarding PFAS as related to the utility industry, could impact the costs of service of the System, and Pledged Revenues may be adversely affected.

Possible Future Litigation Regarding Utility Rates. Litigation against the City seeking a referendum as to utility rate increases adopted in 2004 resulted in a final decision holding such increases are not subject to voter approval by referendum. However, an amendment to Arizona Revised Statutes § 9-511.01 made by the Arizona Legislature in 2006, which requires that rates and charges for water and wastewater services charged by Arizona cities and towns must be "just and reasonable," may encourage rate litigation against cities and towns, such as the City, in the future.

Other Considerations. The Audited General Purpose Financial Statements of the City included in APPENDIX D hereto are for the Fiscal Year ended June 30, 2022 and may not reflect the current financial positions of the City. Such financial statements are the most recent audited financial statements for the City.

Risks Related to COVID-19 (Coronavirus). The spread of Coronavirus Disease 2019 ("COVID-19") continues to affect the nation and the State with ongoing concerns related to health and safety, appropriate preventative protocols, fiscal and economic issues. Government and business operations in the State, following the rescindment of numerous COVID-19 related Executive Orders by then-Arizona Governor Doug Ducey in March 2021, presently function essentially without government-imposed restrictions related to the global pandemic.

While the City does not currently anticipate that COVID-19 will have a material impact on the collection of utility billings, which is the source of payment of the Pledged Revenues securing the principal and interest due on the Obligations, should adverse economic conditions reduce the ability of utility users to pay, there can be no assurance that it will not have a materially negative impact on the collections of Pledged Revenues.

**SOURCES AND USES OF FUNDS**

The proceeds of the Obligations will be applied as follows:

<b>Sources of Funds</b>	<u>Obligations *</u>
Principal Amount of the Obligations	\$192,170,000.00
[Net] Original Issue Premium [(a)]	
Total Sources of Funds	<u>                    \$</u>
<b>Uses of Funds</b>	
Payment of Costs of Series 2023 Projects	\$
Delivery Costs (b)	
Total Uses of Funds	<u>                    \$</u>

- 
- (a) [Net original issue premium consists of original issue premium on the Obligations less original issue discount on the Obligations.]
- (b) Includes premium for bond insurance, if any, compensation of the underwriter and certain costs incurred by the City in connection with the execution and delivery of the Obligations.



## ESTIMATED DEBT SERVICE REQUIREMENTS AND DEBT SERVICE COVERAGE

The table below sets forth (i) the annual debt service requirements of the City's outstanding Bonds and Parity Obligations, (ii) the estimated annual debt service requirements of the Obligations, (iii) the estimated total annual utility systems revenue debt service requirements after issuance of the Obligations, and (iv) the estimated debt service coverage ratio provided for such total annual debt service requirements based upon the City's Fiscal Year 2021/22 Net Revenues.

### City of Mesa, Arizona - Schedule of Debt Service Requirements and Debt Service Coverage (a)

Period Ending (07-01)	Bonds (b)*		Parity Obligations		Obligations*		Estimated Combined Annual Debt Service *	Estimated Combined Debt Service Coverage (d)*
	Principal	Interest	Principal	Interest	Principal	Interest (c)		
2024	\$ 49,546,010	\$45,665,593	\$ 3,705,000	\$6,682,148	\$ 4,770,000	\$5,444,817	\$ 115,813,567	_.x
2025	50,999,440	43,205,065	3,690,000	6,548,293	5,100,000	9,370,000	118,912,798	_.x
2026	52,347,949	40,924,648	3,670,000	6,406,833	5,100,000	9,115,000	117,564,430	
2027	54,821,538	38,648,753	3,655,000	6,262,048	4,500,000	8,860,000	116,747,339	
2028	58,225,210	36,353,866	3,630,000	6,112,485	5,000,000	8,635,000	117,956,562	
2029	56,402,367	33,925,538	3,660,000	5,958,600	4,500,000	8,385,000	112,831,505	
2030	60,955,000	31,583,988	3,675,000	5,775,600	4,000,000	8,160,000	114,149,588	
2031	68,555,000	28,970,500	2,675,000	5,591,850	4,000,000	7,960,000	117,752,350	
2032	70,385,000	26,093,950	2,700,000	5,458,100	3,000,000	7,760,000	115,397,050	
2033	67,685,000	23,147,638	2,700,000	5,323,100	3,000,000	7,610,000	109,465,738	
2034	64,350,000	20,632,563	2,700,000	5,188,100	3,000,000	7,460,000	103,330,663	
2035	61,235,000	18,015,563	3,960,000	5,053,100	2,500,000	7,310,000	98,073,663	
2036	5,850,000	15,556,138	57,655,000	4,867,450	4,500,000	7,185,000	95,613,588	
2037	75,540,000	15,370,638	-	1,984,700	-	6,960,000	99,855,338	
2038	69,150,000	12,421,100	-	1,984,700	2,500,000	6,960,000	93,015,800	
2039	63,175,000	9,962,438	-	1,984,700	4,000,000	6,835,000	85,957,138	
2040	56,795,000	7,633,938	-	1,984,700	5,500,000	6,635,000	78,548,638	
2041	47,280,000	5,607,250	2,100,000	1,984,700	7,600,000	6,360,000	70,931,950	
2042	36,505,000	3,616,000	4,700,000	1,879,700	11,100,000	5,980,000	63,780,700	
2043	24,700,000	1,883,750	8,195,000	1,644,700	14,100,000	5,425,000	55,948,450	
2044	14,600,000	747,750	8,600,000	1,249,950	18,100,000	4,720,000	48,017,700	
2045	4,395,000	219,750	9,210,000	834,950	21,100,000	3,815,000	39,574,700	
2046			7,845,000	392,250	20,100,000	2,760,000	31,097,250	
2047					21,100,000	1,755,000	22,855,000	
2048					14,000,000	700,000	14,700,000	
<b>Total</b>	<b>\$1,113,497,515</b>		<b>\$138,725,000</b>		<b>\$192,170,000</b>		<b>\$2,157,891,501</b>	

- (a) Prepared by the Financial Advisor (defined herein). Totals may not add due to rounding.
- (b) Reflects debt service on Bonds secured by Net Revenues of the System which is prior and senior to the claim of the Obligations and Parity Obligations on the Pledged Revenues.
- (c) The first interest payment on the Obligations is due on July 1, 2024\*. Thereafter, interest payments will be made semiannually on each July 1 and January 1, until maturity or prior redemption. Interest for the Obligations is estimated at 5.00%.
- (d) Debt Service coverage is computed using the Net Revenues of \$ \_\_\_ million for Fiscal Year 2021/22. See "COMBINED SCHEDULES OF REVENUES AND DEBT SERVICE COVERAGE" herein. The Fiscal Year 2021/22 Net Revenues provide coverage for the total estimated annual debt service requirements in Fiscal Year 2023/24 of approximately .x\* and approximately .x\* for the total estimated annual debt service requirements for Fiscal Year 2024/25 which represents the Fiscal Year with the estimated Maximum Annual Debt Service payable on all Bonds, Obligations, and Parity Obligations to be outstanding immediately after issuance of the Obligations. So long as the Bonds are Outstanding under the Master Bond Resolution, certain covenants pertaining to the Obligations and Parity Obligations are modified to be calculated using Net Revenues. See "SECURITY FOR AND SOURCES OF PAYMENT OF THE OBLIGATIONS – Obligation Rate Covenant," "– Debt Service Reserve Account: No Current Funding Requirement," and "– Additional Obligations."

\* Subject to change.

## **RATINGS**

S&P Global Ratings, a division of Standard & Poor's Financial Services LLC ("S&P") is expected to assign the rating of "\_\_\_" to the Obligations with the understanding that the Policy will be delivered by the Bond Insurer simultaneously with the issuance of the Obligations. Moody's Investors Service, Inc. ("Moody's") and S&P have assigned credit ratings of "\_\_\_" and "\_\_\_", respectively, to the Obligations. Such ratings reflect only the views of Moody's and S&P. An explanation of the significance of such ratings may be obtained from Moody's at One Front Street, Suite 1900, San Francisco, California 94111, from and S&P at One California Street, 31<sup>st</sup> Floor, San Francisco, California 94111. Such ratings may subsequently be revised downward or withdrawn entirely by Moody's or S&P, if, in their respective judgment, circumstances so warrant. Any subsequent downward revision or withdrawal of such ratings may have an adverse effect on the market price and transferability of the Obligations. The City will covenant in its Continuing Disclosure Undertaking (as defined herein) (see "CONTINUING SECONDARY MARKET DISCLOSURE" below) that it will cause notices to be filed with the MSRB of any formal change in the ratings relating to the Obligations. A securities rating is not a recommendation to buy, sell or hold securities, including the Obligations.

## **LEGAL MATTERS**

Legal matters relating to the execution and delivery of the Obligations, the validity of the Obligations under Arizona law and the tax status of the Obligations (see "TAX MATTERS" herein) are subject to the legal opinion of Greenberg Traurig, LLP, Phoenix, Arizona ("Special Counsel"), whose services as Special Counsel have been retained by the City. The signed legal opinion of Special Counsel, dated and premised on the law in effect only as of the date of original delivery of the Obligations, will be delivered to the City at the time of original delivery of the Obligations.

The proposed text of the legal opinion is set forth as APPENDIX H. The legal opinion to be delivered may vary from the text of APPENDIX H, if necessary, to reflect the facts and law on the date of delivery. The opinion will speak only as of its date, and subsequent distribution, by recirculation of this Official Statement or otherwise, should not be construed as a representation that Special Counsel has reviewed or expressed any opinion concerning any matters relating to the Obligations subsequent to the original delivery of the Obligations.

In rendering its opinion, Special Counsel will rely upon certificates and representations of facts to be contained in the transcript of proceedings Special Counsel will not have independently verified.

While Special Counsel has participated in the preparation of portions of this Official Statement, it has not been engaged to confirm or verify, and expresses and will express no opinion as to, the accuracy, completeness or fairness of any statements in this Official Statement, or in any other reports, financial information, offering or disclosure documents or other information pertaining to the City or the Obligations that may be prepared or made available by the City or others to the Holders of the Obligations or others.

From time to time, there are legislative proposals (and interpretations of such proposals by courts of law and other entities and individuals) which, if enacted, could alter or amend the property tax system of the State and numerous matters, both financial and nonfinancial, impacting the operations of municipalities which could have a material impact on the City and could adversely affect the secondary market value or marketability of the Obligations. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, it would apply to obligations (such as the Obligations) issued prior to enactment.

The legal opinion to be delivered concurrently with the delivery of the Obligations will express the professional judgment of the attorneys rendering the opinion as to the legal issues explicitly addressed therein dated and speaking only as of the date of delivery of the Obligations. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or of the future performance of parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

## **TAX MATTERS**

### **General**

The Internal Revenue Code of 1986, as amended (the "Code"), includes requirements which the City must continue to meet after the execution and delivery of the Obligations in order that the portion of each of the Purchase Payments made by the City pursuant to the Purchase Agreement and denominated as and comprising interest pursuant to the Purchase Agreement and received by the Owners of the Obligations (the "Interest Portion") will be and remain excludable from

gross income for federal income tax purposes. The City's failure to meet these requirements may cause the Interest Portion to be included in gross income for federal income tax purposes retroactively to the date of execution and delivery of the Obligations. The City has covenanted in the Purchase Agreement to take the actions required by the Code in order to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion.

In the opinion of Special Counsel, assuming the accuracy of certain representations and certifications of the City and continuing compliance by the City with the tax covenants referred to above, under existing statutes, regulations, rulings and court decisions, the Interest Portion is excludable from gross income of the holders thereof for federal income tax purposes. The Interest Portion is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals, but in the case of the alternative minimum tax imposed by Section 55(b)(2) of the Code on applicable corporations (as defined in Section 59(k) of the Code), the Interest Portion is not excluded from the determination of adjusted financial statement income for tax years beginning after 2022. Special Counsel is further of the opinion that the interest on the Obligations is exempt from income taxation under the laws of the State. Special Counsel will express no opinion as to any other tax consequences regarding the Interest Portion or the Obligations. Prospective purchasers of the Obligations should consult with their own tax advisors as to the status of the Interest Portion under the tax laws of any state other than the State.

The above opinion on federal tax matters with respect to the Obligations will be based on and will assume the accuracy of certain representations and certifications of the City, and compliance with certain covenants of the City to be contained in the transcript of proceedings and that are intended to evidence and assure the foregoing, including that the Obligations will be and will remain obligations the interest on which is excludable from gross income for federal income tax purposes. Special Counsel will not independently verify the accuracy of those certifications and representations. Special Counsel will express no opinion as to any other consequences regarding the Obligations.

Except as described above, Special Counsel will express no opinion regarding the federal income tax consequences resulting from the receipt or accrual of the Interest Portion, or the ownership or disposition of the Obligations. Prospective purchasers of Obligations should be aware that the ownership of Obligations may result in other collateral federal tax consequences, including (i) the denial of a deduction for interest on indebtedness incurred or continued to purchase or carry the Obligations, (ii) the reduction of the loss reserve deduction for property and casualty insurance companies by the applicable statutory percentage of certain items, including the Interest Portion, (iii) the inclusion of the Interest Portion in the earnings of certain foreign corporations doing business in the United States for purposes of a branch profits tax, (iv) the inclusion of the Interest Portion in the passive income subject to federal income taxation of certain Subchapter S corporations with Subchapter C earnings and profits at the close of the taxable year, and (v) the inclusion of the Interest Portion in the determination of the taxability of certain Social Security and Railroad Retirement benefits to certain recipients of such benefits, (vi) net gain realized upon the sale or other disposition of property such as the Obligations generally must be taken into account when computing the Medicare tax with respect to net investment income or undistributed net investment income, as applicable, imposed on certain high income individuals and specified trusts and estates and (vii) receipt of certain investment income, including interest on the Obligations, is considered when determining qualification limits for obtaining the earned income credit provided by Section 32(a) of the Code. The nature and extent of the other tax consequences described above will depend on the particular tax status and situation of each owner of the Obligations. Prospective purchasers of the Obligations should consult their own tax advisors as to the impact of these and any other tax consequences.

Special Counsel's opinions are based on existing law, which is subject to change. Such opinions are further based on factual representations made to Special Counsel as of the date thereof. Special Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may thereafter come to Special Counsel's attention, or to reflect any changes in law that may thereafter occur or become effective. Moreover, Special Counsel's opinions are not a guarantee of a particular result and are not binding on the Internal Revenue Service or the courts; rather, such opinions represent Special Counsel's professional judgment based on its review of existing law, and in reliance on the representations and covenants that it deems relevant to such opinion.

### **Original Issue Premium and Original Issue Discount**

Certain of the Obligations ("Discount Obligations") may be offered and sold to the public at an original issue discount ("OID"). OID is the excess of the stated redemption price at maturity (the principal amount) over the "issue price" of a Discount Obligation determined under Code Section 1273 or 1274 (i.e., for obligations issued for money in a public offering, the initial offering price to the public (other than to bond houses and brokers) at which a substantial amount of the obligation of the same maturity is sold pursuant to that offering). For federal income tax purposes, OID accrues to the owner of a Discount Obligation over the period to maturity based on the constant yield method, compounded

semiannually (or over a shorter permitted compounding interval selected by the owner). The portion of OID that accrues during the period of ownership of a Discount Obligation (i) is interest excludable from the owner's gross income for federal income tax purposes to the same extent, and subject to the same considerations discussed above, as other interest on the Obligations, and (ii) is added to the owner's tax basis for purposes of determining gain or loss on the maturity, redemption, prior sale, or other disposition of that Discount Obligation.

Certain of the Obligations ("Premium Obligations") may be offered and sold to the public at a price in excess of their stated redemption price (the principal amount) at maturity (or earlier for certain Premium Obligations callable prior to maturity). That excess constitutes bond premium. For federal income tax purposes, bond premium is amortized over the period to maturity of a Premium Obligation, based on the yield to maturity of that Premium Obligation (or, in the case of a Premium Obligation callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on that Premium Obligation), compounded semiannually (or over a shorter permitted compounding interval selected by the owner). No portion of that bond premium is deductible by the owner of a Premium Obligation. For purposes of determining the owner's gain or loss on the sale, redemption (including redemption at maturity), or other disposition of a Premium Obligation, the owner's tax basis in the Premium Obligation is reduced by the amount of bond premium that accrues during the period of ownership. As a result, an owner may realize taxable gain for federal income tax purposes from the sale or other disposition of a Premium Obligation for an amount equal to or less than the amount paid by the owner for that Premium Obligation.

Owners of Premium Obligations should consult their own tax advisors as to the determination for federal income tax purposes of the amount of bond premium properly amortizable in any period with respect to the Premium Obligations and as to other federal tax consequences, and the treatment of bond premium for purposes of state and local taxes on, or based on, income.

### **Changes in Federal and State Tax Law**

From time to time, there are legislative proposals suggested, debated, introduced or pending in congress or in the State legislature that, if enacted into law, could alter or amend one or more of the federal tax matters, or state tax matters, respectively, described above including, without limitation, the excludability from gross income of the Interest Portion, adversely affect the market price or marketability of the Obligations, or otherwise prevent the holders from realizing the full current benefit of the status of the Interest Portion. It cannot be predicted whether or in what form any such proposal may be enacted, or whether, if enacted, any such proposal would affect the Obligations. Prospective purchasers of the Obligations should consult their tax advisors as to the impact of any proposed or pending legislation.

On August 16, 2022, President Biden signed the Inflation Reduction Act of 2022 (H.R. 5376) into law. For tax years beginning after 2022, this legislation will impose a minimum tax of 15 percent on the adjusted financial statement income of applicable corporations as defined in Section 59(k) of the Code (which is primarily designed to impose a minimum tax on certain large corporations). For this purpose, adjusted financial statement income is not reduced for interest earned on tax-exempt obligations. Prospective purchasers that could be subject to this minimum tax should consult with their own tax advisors regarding the potential consequences of owning the Obligations.

### **Information Reporting and Backup Withholding**

Interest paid on obligations such as the Obligations is subject to information reporting to the Internal Revenue Service in a manner similar to interest paid on taxable obligations. This reporting requirement does not affect the excludability of the Interest Portion from gross income for federal income tax purposes. However, in conjunction with that information reporting requirement, the Code subjects certain non-corporate owners of the Obligations, under certain circumstances, to "backup withholding" at the rates set forth in the Code, with respect to payments on the Obligations and proceeds from the sale of the Obligations. Any amount so withheld would be refunded or allowed as a credit against the federal income tax of such owner of the Obligations. This withholding generally applies if the owner of the Obligations (i) fails to furnish the payor such owner's social security number or other taxpayer identification number ("TIN"), (ii) furnished the payor an incorrect TIN, (iii) fails to properly report interest, dividends, or other "reportable payments" as defined in the Code, or (iv) under certain circumstances, fails to provide the payor or such owner's securities broker with a certified statement, signed under penalty of perjury, that the TIN provided is correct and that such owner is not subject to backup withholding. Prospective purchasers of the Obligations may also wish to consult with their tax advisors with respect to the need to furnish certain taxpayer information in order to avoid backup withholding.

## LITIGATION

### **No Litigation Relating to the Obligations**

At the time of delivery of the Obligations, an officer of the City will certify that there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending, or to the knowledge of the City, overtly threatened against the City, affecting the existence of the City or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the execution, sale or delivery of the Obligations or that questions the City's right or authority to receive the sources of payment of the Obligations, or in any way contesting or affecting the validity or enforceability of the Obligations, the Trust Agreement, the Purchase Agreement, the Resolution or the Continuing Disclosure Undertaking, or contesting in any way the completeness or accuracy of this Official Statement, or any amendment or supplement thereto, or contesting the power or authority of the City to execute and deliver the Continuing Disclosure Undertaking, or wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Obligations, the Trust Agreement, the Purchase Agreement, the Resolution or the Continuing Disclosure Undertaking, or have a material adverse effect on the transaction contemplated by this Official Statement.

### **Other Litigation Against the City**

Like any large municipality, the City is currently involved in multiple lawsuits and annually receives numerous claims associated with City operations. Based on the information currently available to the City, as of the date of this Official Statement none of the pending lawsuits or received claims are reasonably anticipated to exceed the City's available insurance coverage or materially adversely affect the City or the Pledged Revenues.

From time to time the City receives letters from residents of the City alleging various items including, without limitation, that (i) the rates and fees charged by the City's System are not just and reasonable, (ii) the City's transfer of System revenues to the City's General Fund is not permitted by law, and (iii) the City's financial statements inaccurately reflect debt service payments on the City's outstanding general obligation bonds, utility systems revenue bonds and utility systems revenue obligations. Some of these letters include notice of the respective author's intent to file a lawsuit against the City.

Generally, City staff is able to respond directly to the authors of such letters to address the particular resident's concerns. Currently, the City is not in receipt of any such letters from residents challenging the issuance of the Obligations, however the City did receive letters of the nature described above immediately prior to the sale of the City's general obligation bonds and utility systems revenue bonds in 2018, which has resulted in no legal action to date.

The City is unable to predict if any lawsuits threatened in such future letters from residents will actually be filed, or if any letters from residents will be received prior to the sale of the Obligations. Generally, prior letters received from residents do not present a case or controversy which would adversely affect the issuance, validity or payment of the City's general obligation bonds, utility systems revenue bonds or utility systems revenue obligations, including the Obligations, and if the threatened lawsuits were actually filed the City believes the claims would lack merit and the City would be entitled to judgment as a matter of law. In addition, based on the City's past experience receiving such letters from residents, if any lawsuits were actually filed, the City believes it has a number of meritorious factual and legal defenses and would vigorously defend itself. Although no prediction can be made with respect to the City's liability for any claims asserted in any future resident letters or litigation, the City has previously successfully defended itself in a prior lawsuit involving issues regarding the System ratemaking process and adjustments to System rates similar to the claims threatened in prior letters from residents.

## **CERTIFICATION CONCERNING OFFICIAL STATEMENT**

The closing documents will include a certificate confirming that, to the best knowledge, information and belief of the City's Deputy City Manager and Chief Financial Officer, the descriptions and statements contained in this Official Statement are at the time of execution and delivery of the Obligations, true, correct and complete in all material respects and do not contain an untrue statement of a material fact, or omit to state a material fact required to be stated therein in order to make the statements, in light of the circumstances under which they are made, not misleading. In the event this Official Statement is supplemented or amended, the foregoing confirmation will also encompass such supplements or amendments.

## **CONTINUING SECONDARY MARKET DISCLOSURE**

The City will covenant for the benefit of holders and Beneficial Owners of the Obligations to provide certain financial information and operating data relating to the City by not later than February 1 in each year commencing February 1, 2024 (the “Annual Reports”), and to provide notices of the occurrence of certain enumerated events (the “Notices”), as set forth in APPENDIX I – “Form of Continuing Disclosure Undertaking” (the “Continuing Disclosure Undertaking”). The Annual Reports and Notices and any other documentation or information required to be filed by such covenants will be filed by the City with the MSRB, in a format prescribed by the MSRB. Currently the MSRB requires filing through the MSRB’s EMMA system as described in APPENDIX I – “Form of Continuing Disclosure Undertaking.”

These covenants will be made in order to assist the underwriter in complying with the Securities and Exchange Commission Rule 15c2-12 (the “Rule”). The form of the undertaking necessary pursuant to the Rule is included as APPENDIX I hereto. A failure by the City to comply with these covenants must be reported in accordance with the Rule and must be considered by any broker, dealer, or municipal securities dealer before recommending the purchase or sale of the Obligations in the secondary market. The City’s undertaking to comply with such covenants is payable solely from Pledged Revenues of the System. Absence of continuing disclosure could adversely affect the Obligations and specifically their market price and transferability. The City’s Finance Department has instituted written policies and procedures to ensure timely and proper filing of its Annual Reports and Notices for all of the City’s outstanding obligations.

The presentation of the financial and operating data referenced above has changed over time in the City’s various Official Statements. Therefore, the presentation of such financial and operating data in the City’s Annual Reports may match the current presentation of such financial and operating data instead of the presentation of such financial and operating data when bonds were originally issued. Similarly, certain references to financial and operating data in the City’s prior disclosure undertakings do not specifically identify which data within an Official Statement appendix the City was to provide in its Annual Reports. In such circumstances, the City has provided data pertaining to the City in its Annual Reports, for example excise tax collections in the City, and the City’s Annual Reports do not include data not specifically pertaining to the City, for example excise tax collections in the County or State.

## **FINANCIAL ADVISOR**

Hilltop Securities Inc. is financial advisor (“Financial Advisor”) to the City in connection with the issuance of the Obligations. The Financial Advisor’s fee for services rendered with respect to the sale of the Obligations is contingent upon the issuance and delivery of the Obligations. The Financial Advisor has not verified and does not assume any responsibility for the information, covenants and representations contained in any of the legal documents with respect to the federal income tax status of the Obligations, or the possible impact of any present, pending, or future actions taken by any legislative or judicial bodies.

## **GENERAL PURPOSE FINANCIAL STATEMENTS**

The City’s Audited General Purpose Financial Statements for the Fiscal Year Ended June 30, 2022, a copy of which is included in APPENDIX D of this Official Statement, have been audited by CliftonLarsonAllen LLP, certified public accountants, to the extent and for the period indicated in their report thereon. The City is not aware of any facts that would make such Audited General Purpose Financial Statements misleading. The Audited General Purpose Financial Statements are for the fiscal year ended June 30, 2022 and are not current. The City neither requested nor obtained the consent of CliftonLarsonAllen LLP to include the report, and CliftonLarsonAllen LLP has performed no procedures subsequent to rendering its opinion on the financial statements.

## **ADDITIONAL INFORMATION**

Additional information and copies of this Official Statement, the Purchase Agreement and the Trust Agreement may be obtained from the Deputy City Manager and Chief Financial Officer of the City, 20 East Main Street, Suite 700, Mesa, Arizona 85201.

**CONCLUDING STATEMENT**

To the extent that any statements made in this Official Statement involve beliefs, assumptions, estimates, projections, forecasts, or other matters of opinion or estimates, whether or not expressly stated to be such, they are made as such and not as representations of fact or certainty and no representation is made that any of these statements have been or will be realized. Such beliefs, assumptions, estimates, projections, forecasts, or other matters of opinion are forward looking statements which must be read with an abundance of caution. Information set forth in this Official Statement has been derived from the records of the City and from certain other sources, as referenced, and is believed by the City to be accurate and reliable. Information other than that obtained from official records of the City has not been independently confirmed or verified by the City and its accuracy is not guaranteed.

Neither this Official Statement nor any statements that may have been or that may be made orally or in writing are to be construed as a part of a contract with the original purchasers or subsequent owners of the Obligations. **This Official Statement has been prepared by the City and executed for and on behalf of the City by its Deputy City Manager and Chief Financial Officer, as indicated below.**

**CITY OF MESA, ARIZONA**

By: \_\_\_\_\_  
Deputy City Manager and Chief Financial Officer

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**CITY OF MESA, ARIZONA  
GENERAL ECONOMIC AND DEMOGRAPHIC INFORMATION**

**General**

The City is the third largest city in the State and the 35th largest city in the United States. Founded in 1878 and incorporated in 1883, the City had an estimated 2022 population of 516,429. The following table illustrates the City’s population statistics since 1990, along with the population statistics for the County and the State, respectively.

**POPULATION STATISTICS**

Year	City of Mesa	Maricopa County	State of Arizona
2022 Estimate (a)	516,429	4,586,431	7,409,189
2020 Census	504,258	4,420,568	7,151,502
2010 Census	439,041	3,817,117	6,392,017
2000 Census	396,375	3,072,149	5,130,632
1990 Census	288,091	2,122,101	3,665,228

(a) Estimate as of July 1, 2022 (published December 2022).

Source: U.S. Census Bureau, Population Division – *Annual Estimates of the Resident Population*, Arizona Office of Economic Opportunity – *State, County, Place Level Population Estimates for July 1*, and U.S. Census Bureau (2020, 2010, 2000 and 1990) – *Census of Population and Housing*.

The following table sets forth a record of the City’s geographic area since 1970.

**SQUARE MILE STATISTICS  
City of Mesa, Arizona**

Year	Square Miles
2020	140.44
2010	133.14
2000	125.00
1990	122.11
1980	66.31
1970	20.80

Source: The City.

**Municipal Government and Organization**

The City operates under a charter form of government with citizens electing a Mayor and six City Councilmembers to set policy for the City. In 1998, a voter initiative was approved changing the way that City Councilmembers are elected from an at-large to a district system. Six districts were created in March 2000 with City Councilmembers serving staggered four-year terms. The Mayor continues to be elected at-large every four years. The Mayor and City Councilmembers are elected on a non-partisan basis, and the Vice Mayor is a City Councilmember selected by the City Council.

The City Manager, who has full responsibility for carrying out City Council policies and administering City operations, is appointed by the City Council. The City Manager is responsible for the appointment of City department heads. Additionally, City employees are hired under merit system procedures as specified in the City Charter. The various functions of City government and operations are undertaken by City employees working in the various City departments.

**City Administrative Staff**

*Christopher Brady, City Manager.* Mr. Brady was appointed by the City Council to serve as City Manager effective January 1, 2006. Under the City’s council-manager form of government, the City Manager serves as the chief operating officer of the City, one of the fastest-growing cities of the United States. Mr. Brady implements the policies established by the City Council and coordinates all City departments and other affairs assigned by the City Charter. Prior to joining the City, Mr. Brady served as Assistant City Manager for the City of San Antonio, Texas. Mr. Brady has a Bachelor of Fine Arts degree in Political Science and a Master of Public Administration degree from Brigham Young University.

*Michael Kennington, Deputy City Manager and Chief Financial Officer.* Mr. Kennington was hired as the City’s Chief Financial Officer in July 2012 and was promoted to Deputy City Manager and Chief Financial Officer in 2019. He is responsible for the City’s overall financial policies, strategies, planning, and forecasts. Mr. Kennington has a Master of Accountancy degree and Master of Business Administration degree from Brigham Young University and is a Certified Public Accountant.

*Scott Butler, Assistant City Manager.* Mr. Butler is an Assistant City Manager for the City overseeing a variety of departments and initiatives including Police, Fire, Municipal Court, Mayor and City Council Office, Federal and State Affairs, Transportation, Transit, Falcon Field Airport, Grants, and the Public Information Office.

Prior to joining the City eighteen years ago, Mr. Butler served in variety of roles at the local, state and federal level. He served as policy advisor for the Judiciary Committee of the Georgia House of Representatives and as a media/elected official outreach liaison for the White House Office of Scheduling and Advance. While serving as a Senior Policy Advisor to the Georgia Secretary of State, he helped lead the department’s efforts to implement the first statewide electronic voting system in the nation.

Mr. Butler has a Bachelor of Arts degree in Political Science from the University of Georgia and a Master of Public Administration degree from Arizona State University.

**Economy**

The City’s major economic sectors are comprised of manufacturing, non-manufacturing, government, and commercial activities (including construction and commerce), and tourism.

The following table sets forth unemployment rate averages for the United States, the State, the County and the City for the current year and most recent five years for which such information is available.

**UNEMPLOYMENT RATE AVERAGES**

Year	United States	State of Arizona (a)	Maricopa County (a)	City of Mesa (a)
2023 (b)	3.7%	3.6%	3.2%	3.3%
2022	3.7	3.8	3.3	3.4
2021	5.4	5.1	4.6	4.5
2020	8.1	7.8	7.3	7.2
2019	3.7	4.8	4.1	4.1
2018	3.9	4.8	4.1	4.1

(a) This table includes restated data: Local Area Unemployment Statistics (“LAUS”) program data is intermittently revised to incorporate new population controls, updated inputs, re-estimation of models, and adjustment to new census division and national control totals.

(b) Data is not seasonally adjusted, is preliminary and is an average through August 2023 for the National Unemployment rate and through July 2023 for LAUS data.

Source: U.S. Department of Labor, Bureau of Labor Statistics – *Local Area Unemployment Statistics* and *National Labor Force Statistics*. Data accessed September 6, 2023.

**Manufacturing and Non-Manufacturing Employment**

A list of significant employers located within the City is set forth in the following table.

**MAJOR EMPLOYERS  
City of Mesa, Arizona**

Employer	Description	Approximate Employment
Mesa Public Schools	Public Education	7,726
Banner Health Systems	Hospital Network	6,826
The Boeing Company	Helicopter Manufacturing and Assembly	3,945
City of Mesa	Government	3,579
Wal-Mart	Retail	3,269
Maricopa County	Government	2,191
Frys Food Stores (The Kroger Company)	Retail	1,371
Drivetime Automotive Group	Automotive Financing	1,367
Home Depot	Retail	1,309
Gilbert Public Schools	Public Education	1,004

Source: The City, Office of Economic Development as of August 13, 2023.

**Phoenix-Mesa Gateway Airport and the Airport/Campus District**

Phoenix-Mesa Gateway Airport (formerly known as Williams Gateway Airport) has three runways (10,401 feet, 10,201 feet, and 9,301 feet) and a passenger terminal. Phoenix-Mesa Gateway Airport is a small-hub commercial airport serving the Phoenix-Mesa metropolitan area with direct service to more than 60 destinations currently provided by Allegiant Air, Flair Airlines, Sun Country Airlines, Swoop and WestJet.

Phoenix-Mesa Gateway Airport is also developing as an international aerospace center with aircraft maintenance, modification, testing, and pilot training. Currently more than 40 companies operate on the airport, including manufacturer service centers for Gulfstream, Cessna and Embraer. In 2021, the Arizona Department of Transportation completed an economic impact study of the State’s airport system, including Phoenix-Mesa Gateway Airport. According to that study, the airport’s economic benefit (including all multiplier effects) totaled \$1.8 billion, with \$829.4 million in economic activity generated by on-airport activity, creating and supporting 10,224 jobs in the area.

Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority whose members include the City, City of Phoenix (until June 30, 2024), Town of Gilbert, Town of Queen Creek, the City of Apache Junction, and the Gila River Indian Community.

Adjacent to Phoenix-Mesa Gateway Airport, the Airport/Campus District serves approximately 8,700 students. The campus includes five higher education partners - Arizona State University (“ASU”) Polytechnic campus, Chandler-Gilbert Community College, Embry-Riddle Aeronautical University, Mesa Community College and UND Aerospace (University of North Dakota, John D. Odegard School of Aerospace Sciences – Phoenix Flight Training Center). The ASU Polytechnic campus is 600-acres and includes advanced learning labs and classroom space, faculty offices and a 450-seat auditorium.

State Route 24, a one-mile freeway segment extending access from the existing State Route 202 freeway eastward, was completed May 2014. This freeway segment lies immediately north of Phoenix-Mesa Gateway Airport and provides freeway access to the east side of the airport property. Such access is beneficial for the economic development of properties located on, and adjacent to, Phoenix-Mesa Gateway Airport, as well as future terminal development on the east side.

**Construction**

The following tables set forth annual records of building permit values and new housing permits issued within the City.

**VALUE OF BUILDING PERMITS  
City of Mesa, Arizona  
(\$000's omitted)**

Fiscal Year	Residential	Commercial	Other	Total
2023/24 (a)	\$ 55,801	\$ 129,627	\$ -	\$ 185,956
2022/23	379,304	2,620,529	3,035	3,002,868
2021/22	894,064	1,348,806	3,112	2,245,982
2020/21	740,870	1,074,928	4,499	1,820,297
2019/20	795,733	544,562	2,076	1,342,371
2018/19	787,199	929,803	6,165	1,723,167

(a) Partial fiscal year data from July 1, 2023, through July 31, 2023.

Source: The City.

Construction is valued on the basis of estimated cost, not on market price or value of construction at the time the permit is issued. The date on which the permit is issued is not to be construed as the date of construction.

**NEW HOUSING PERMITS  
City of Mesa, Arizona**

Fiscal Year	Total New Housing Units
2023/24 (a)	114
2022/23	743
2021/22	2,296
2020/21	2,183
2019/20	2,340
2018/19	2,334

(a) Partial fiscal year data from July 1, 2023, through July 31, 2023.

Source: The City.

The date on which the permit is issued is not to be construed as the date of construction.

**Retail**

The following table sets forth a record of retail sales activity within the City.

**TAXABLE RETAIL SALES  
City of Mesa, Arizona**

Fiscal Year	Retail Sales
2023/24 (a)	\$
2022/23	8,483,005,834
2021/22	8,134,561,575
2020/21	7,171,741,191
2019/20	5,776,270,849
2018/19	5,227,198,433

(a) Data reflects collections from July 1, 2023, through \_\_\_\_\_, 2023.

Source: The City.

## Tourism

The tourism sector is a significant contributor to the City's economy. The City's hotels, motels, golf courses, parks and playgrounds, restaurants and retail shops provide tourists with accommodations and recreational facilities. There are more than 60 hotels in the City, with all of the major hotel brands represented. The table below contains a listing of certain hotels located within the City.

### HOTELS City of Mesa, Arizona

Hotel Name	Number of Sleeping Rooms
Phoenix Marriott Mesa	275
Hilton Phoenix East-Mesa	260
Holiday Inn Mesa	246
Dobson Ranch Inn & Suites	213
Arizona Golf Resort	187
Sheraton Mesa at Wrigleyville West	180
Westgate Painted Mountain	152
Hyatt Place Phoenix-Mesa	152
Marriott Courtyard	149
Best Western Mezona Inn	132
Country Inn and Suites	126
La Quinta (West)	125
Days Hotel Mesa-Gilbert	120
Quality Inn/Suites	119

Source: Mesa Convention and Visitors Bureau.

The City owns and operates the Mesa Convention Center (the "Convention Center") which offers convention facilities. The Convention Center is situated on a 17-acre site adjacent to the Phoenix Marriott Mesa. The Convention Center includes Centennial Hall, which is a multipurpose facility of approximately 15,000 square feet, and the Centennial Conference Center and the Rendezvous Center, which offer an additional 18,500 square feet of meeting space. The City operates and maintains 58 parks, including 11 sports complexes and 133 basins covering more than 2,000 acres. In addition, the City manages 9 aquatic facilities, 2 Major League Baseball Spring Training stadiums and a par 72, 18-hole championship golf course. The award-winning Mesa Arts Center facility opened in spring of 2005 and is located in the downtown area of the City. The Mesa Arts Center is a 212,775 square-foot performing arts, visual arts and arts education facility, the largest and most comprehensive arts center in the State.

## Agriculture

Although still a contributor to the economic base, the agricultural sector is no longer a significant factor of the City's economy due to the industrial, commercial, and residential development which has occurred over the past 30 years. The principal products of the City's remaining agricultural sector are dairy and citrus.

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**CITY OF MESA, ARIZONA  
FINANCIAL DATA**

**Current Year Statistics (For Fiscal Year 2023/24)**

**City of Mesa, Arizona**

Total General Obligation Bonds to be Outstanding	\$ 367,550,000 *(a)
Total Utility Systems Revenue Bonds Outstanding	1,113,497,515 (b)
Total Utility Systems Revenue Obligations to be Outstanding	330,895,000 *(c)
Total Street and Highway User Revenue Bonds Outstanding	29,030,000 (d)
Total Excise Tax Revenue Obligations Outstanding	47,275,000 (e)
Net Assessed Limited Property Value	4,517,098,052 (f)
Estimated Net Full Cash Value	72,316,478,822 (g)

- 
- (a) Represents all general obligation bonds of the City to be outstanding following the issuance of the 2023 GO Bonds. See “STATEMENTS OF BONDS OUTSTANDING – General Obligation Bonds to be Outstanding” in this appendix.
  - (b) Represents all utility systems revenue bonds outstanding. See “STATEMENTS OF BONDS OUTSTANDING – Utility Systems Revenue Bonds to be Outstanding” in this appendix.
  - (c) Represents all utility systems revenue obligations to be outstanding including the Obligations. See “STATEMENTS OF BONDS OUTSTANDING – Utility Systems Revenue Obligations to be Outstanding” in this appendix.
  - (d) Represents all street and highway user revenue bonds outstanding. See “STATEMENTS OF BONDS OUTSTANDING – Street and Highway User Revenue Bonds Outstanding” in this appendix.
  - (e) Represents all excise tax revenue obligations outstanding. See “STATEMENTS OF BONDS OUTSTANDING – Excise Tax Revenue Obligations Outstanding” in this appendix.
  - (f) Net of property exempt from taxation; reflects application of applicable assessment ratios.
  - (g) Estimated net full cash value is the total market value of the property less unsecured personal property and less estimated exempt property within the City, as projected by the Arizona Department of Revenue, Division of Property and Special Taxes.

Source: *State and County Abstract of the Assessment Roll*, Arizona Department of Revenue.

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\* Subject to change.

**STATEMENTS OF BONDS OUTSTANDING**

**General Obligation Bonds to be Outstanding  
City of Mesa, Arizona**

Issue Series	Purpose	Original Amount	Maturity Date Range	Balance Outstanding
2012	Various Purpose	\$27,290,000	7-1-13/32	\$ 17,100,000 (a)
2013	Refunding	8,915,000	7-1-14/24	3,250,000
2013	Various Purpose	59,960,000	7-1-14/33	38,125,000 (a)
2014	Various Purpose	37,550,000	7-1-15/34	21,975,000
2015	Various Purpose	13,690,000	7-1-16/35	4,990,000
2016A	Refunding	20,475,000	7-1-17/27	17,055,000
2016B	Refunding	22,935,000	7-1-17/29	12,675,000
2016	Various Purpose	37,700,000	7-1-17/36	27,625,000
2017	Refunding	47,450,000	7-1-17/29	34,260,000
2017	Various Purpose	47,180,000	7-1-17/37	33,355,000
2018	Various Purpose	16,120,000	7-1-19/38	6,175,000
2019	Various Purpose	33,065,000	7-1-20/39	14,385,000
2020	Various Purpose	22,075,000	7-1-21/40	9,805,000
2020	Refunding	23,900,000	7-1-21/30	20,635,000
2021	Various Purpose	19,030,000	7-1-21/41	1,870,000
2021	Refunding	14,495,000	7-1-21/31	11,720,000
2022	Various Purpose	22,620,000	7-1-23/32	9,955,000
Total General Obligation Bonds Outstanding				\$284,955,000
Plus the 2023 GO Bonds				82,595,000*(b)
Total General Obligation Bonds to be Outstanding				<u>\$367,550,000*</u>

(a) The City has authorized the issuance of general obligation refunding bonds to refund certain maturities of the General Obligation Bonds, Series 2012 and Series 2013 (the “GO Bonds To Be Refunded”). The issuance of such bonds are dependent on economic savings and no timeline has been established. Balances shown do not reflect the issuance of general obligation refunding bonds nor the GO Bonds To Be Refunded.

(b) The City expects to offer the 2023 GO Bonds pursuant to a separate official statement.

\* Subject to change.



**Utility Systems Revenue Bonds Outstanding  
City of Mesa, Arizona**

Issue Series	Purpose	Original Amount	Maturity Date Range	Balance Outstanding
2006	Utility Improvement	\$105,400,000	7-1-23/30	\$ 3,875,000
2006	Refunding	127,260,000	7-1-12/24	19,045,000
2007	Utility Improvement	65,550,000	7-1-23/31	4,265,000
2008	Utility Improvement	52,875,000	7-1-23/32	1,575,000
2009	WIFA Loans	3,758,810	7-1-10/29	982,515
2013	Utility Improvement	47,290,000	7-1-37	47,290,000 (a)
2014	Refunding	36,385,000	7-1-37/38	36,385,000
2014	Utility Improvement	102,945,000	7-1-18/30	84,540,000
2015	Utility Improvement	30,220,000	7-1-20/39	25,920,000
2016	Refunding	138,035,000	7-1-25/32	86,275,000
2016	Utility Improvement	90,500,000	7-1-20/40	138,035,000
2017	Refunding	75,435,000	7-1-23/28	117,150,000
2017	Utility Improvement	123,875,000	7-1-21/41	71,070,000
2018	Utility Improvement	112,120,000	7-1-19/42	97,120,000
2019A	Utility Improvement	93,825,000	7-1-20/43	81,825,000
2019B	Refunding	54,225,000	7-1-20/33	52,750,000
2019C	Refunding	79,335,000	7-1-20/35	66,075,000
2020	Utility Improvement	71,070,000	7-1-21/44	66,280,000
2020	Refunding	37,675,000	7-1-34	37,675,000
2021	Utility Improvement	34,685,000	7-1-22/45	30,495,000
2021	Refunding	44,870,000	7-1-35	44,870,000
Total Utility Systems Revenue Bonds Outstanding				<u>\$1,113,497,515 (a)</u>

(a) The City has authorized the issuance of utility systems revenue refunding obligations to refund the Utility Systems Revenue Bonds, Series 2013 (the “Utility Bonds To Be Refunded”). The issuance of such obligations are dependent on economic savings and no timeline has been established. Balances shown do not reflect the issuance of utility systems revenue refunding obligations nor the Utility Bonds To Be Refunded.

**Utility Systems Revenue Obligations to be Outstanding  
City of Mesa, Arizona**

Issue Series	Purpose	Original Amount	Maturity Date Range	Balance Outstanding
2021	Utility Improvement	\$14,015,000	7-1-23/45	\$ 13,015,000
2022A	Utility Improvement	54,705,000	7-1-29/46	54,705,000
2022B	Utility Improvement	16,075,000	7-1-23/28	13,350,000
2022C	Refunding	57,655,000	7-1-36	57,655,000
Total Utility Systems Revenue Obligations Outstanding				\$138,725,000
Plus the Obligations				<u>192,170,000*</u>
Total Utility Systems Revenue Obligations to be Outstanding				<u>\$330,895,000*(a)</u>

(a) The City has authorized the issuance of utility systems revenue refunding obligations to refund the Utility Bonds To Be Refunded. The issuance of such obligations are dependent on economic savings and no timeline has been established. Balances shown do not reflect the issuance of utility systems revenue refunding obligations nor the Utility Bonds To Be Refunded.

**Street and Highway User Revenue Bonds Outstanding  
City of Mesa, Arizona**

Issue Series	Purpose	Original Amount	Maturity Date Range	Balance Outstanding
2006	Street Improvements	\$11,675,000	7-1-23/24	\$ 975,000
2007	Street Improvements	10,675,000	7-1-23/25	2,000,000
2013	Refunding	8,500,000	7-1-24	8,500,000
2015	Refunding	17,555,000	7-1-24/27	17,555,000
Total Street and Highway User Revenue Bonds Outstanding				<u>\$29,030,000</u>

**Excise Tax Revenue Obligations Outstanding  
City of Mesa, Arizona**

Issue Series	Purpose	Original Amount	Maturity Date Range	Balance Outstanding
Senior Obligations:				
2020	ASU Project	\$36,010,000	7-1-21/40	\$32,935,000
Subordinate Obligations:				
2012	Phoenix-Mesa Gateway Airport Authority	19,220,000	7-1-14/38	14,340,000
Total Excise Tax Revenue Obligations Outstanding				<u>\$47,275,000</u>

**Other Indebtedness  
City of Mesa, Arizona**

The City has other obligations which are payable from various City funds, including purchase obligations and other contractual commitments. For additional information with respect to such obligations, please refer to Note 9 of the City’s Audited General Purpose Financial Statements for the Fiscal Year Ended June 30, 2022, contained in APPENDIX D of this Official Statement.

**Pensions and Other Post Employment Benefits  
City of Mesa, Arizona**

All benefitted employees of the City are covered by one of three pension systems. The Arizona State Retirement System (“ASRS”) is for the benefit of the employees of the state and certain other governmental jurisdictions. All benefitted City employees, except sworn fire and police personnel and the City Council, are included in the plan that is a multiple-employer cost-sharing defined benefit pension plan. All sworn fire and police personnel participate in the Public Safety Personnel Retirement System (“PSPRS”) that is an agent multiple-employer defined benefit pension plan. The Mayor and City Council contribute to the State’s Elected Officials Retirement Plan (“EORP”) that is also a multiple-employer cost-sharing pension plan. The EORP is not described herein because of its relative insignificance to the City’s financial statements.

In addition, eligible employees are covered by other post employment benefit plans. All sworn fire and police personnel participate in the PSPRS that is an agent multiple-employer defined benefit health insurance premium benefit (“OPEB”) plan. Eligible City employees also participate in the City’s defined benefit medical plan OPEB plan. Eligible City employees covered by Arizona State Retirement System also participate in the ASRS OPEB plan. The ASRS OPEB plan is not described below because of its relative insignificance to the financial statements.

At June 30, 2022, the City reported the following unfunded liabilities related to pensions and OPEB for all plans to which it contributes (in thousands):

Net Pension and OPEB Liabilities		
Plan	Governmental Activities	Business-Type Activities
ASRS	\$ 164,181	\$ 44,171
PSPRS-Fire	213,314	-
PSPRS-Police	419,147	-
OPEB-Police	9,577	-
City OPEB	888,253	89,784
Total	<u>\$1,694,472</u>	<u>\$133,955</u>

For a more detailed description of these plans and the City contributions to the various plans, please refer to Note 16 of the City's Audited General Purpose Financial Statements for the Fiscal Year Ended June 30, 2022, contained in APPENDIX D of this Official Statement.

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**CITY OF MESA, ARIZONA  
UTILITY SYSTEMS INFORMATION**

**Electric System**

The City Energy Resources Department’s Electric Utility System (“Electric System”) has been in operation since 1917. The Electric System’s electric service area (“ESA”) covers approximately five and a half square miles including the downtown business center of the City. As of Fiscal Year 2022/23 year end, the Electric System served a total of 17,851 customers comprised of 15,082 residential and 2,769 commercial and other customers. The summer system experienced a peak demand in calendar year 2022 of approximately 85.89 megawatts (“MW”)s and Fiscal Year 2022/23 system energy requirements of 326,589 megawatt hours (“MWh”) were metered at the Rogers Substation, the Electric System’s point of supply.

During Fiscal Year 2022/23, the Electric System’s power and transmission resource scheduling and utilization were managed through its participation in the Resources Management Services program (“RMS”) administered by the Western Area Power Administration (“Western”) of the United States Department of Energy. Western provided scheduling, dispatching and accounting functions and purchased supplemental power, as needed, on a monthly, daily and real-time basis. The RMS group consists of the active members of the City, Electrical District Number Two (ED-2), the Town of Fredonia, and Aha Macav Power Service. As part of the RMS group, Western pools these entities’ loads and resources to achieve the benefits of diversity and greater economies of scale in purchased power transactions.

The supply-side resource portfolio of the Electric System for Fiscal Year 2022/23 was comprised of long-term purchased power agreements and short-term seasonal and daily power market purchases. The Electric System contracts for long-term power based on the results of competitive requests for proposals. Additionally, as a member in RMS, the City has access to the wholesale power supply market and the ability to engage in *ad hoc*, short-term firm and non-firm transactions. Power supply resources for the Electric System as of September 2023 are as follows:

Electric Power Resources	Expiration Dates	Maximum Contract MW	
		Summer	Winter
Western Area Power Administration (a):			
Parker-Davis Project	Sep-2028	10.4	8
Colorado River Storage Project	Sep-2024	4.3	3.4
Brookfield Renewable Trading and Marketing LP(b)	Apr-2024	15	15
Constellation Energy Generation, LLC (c)	Dec-2025	10	10
Constellation Energy Generation, LLC (d)	Sep-2024	25	0

- (a) The City and Western are parties to two long-term contracts that provide hydroelectric power from the Parker-Davis Project (“P-DP”) and the Colorado River Storage Project (“CRSP”). The P-DP contract expires on September 30, 2028, and the CRSP contract expires on September 30, 2024. A 40-year extension on the CRSP contract beginning in 2024 has been proposed by WAPA for the same contractual quantities and the re-marketing of the P-DP resource has also begun.
- (b) The City and Brookfield are parties to a 3-year firm 15 MW, 7 x 24, base-load power purchase and sale agreement for demand and associated energy which became effective June 1, 2021 and expires on April 30, 2024.
- (c) The City and Exelon Generation Company, LLC (Constellation) are parties to a 4-year firm 10 MW, 7 x 24, base-load power purchase and sale agreement for demand and associated energy which became effective February 1, 2022 and will expire on December 31, 2025.
- (d) The City and Constellation Energy Generation, LLC (another subsidiary of the Exelon umbrella of companies referred to as “Constellation”) are also parties to a 3-year firm 25 MW, 7 x 16, on-peak power purchase and sale agreement for demand with associated energy beginning June 1, 2022 (for power in June, July, August, and September) that expires September 30, 2024.

The City's purchased power and energy resources are contractually transmitted over Western's Parker-Davis and Pacific-Intertie transmission systems. Beginning October 1, 2018, the City's new transmission contractual arrangements with Western became effective with the City reducing its point-to-point Pacific Intertie transmission (West Wing to Pinnacle Peak) capacity from 25 MW to 15 MW and switching its Parker-Davis transmission from point-to-point service to network integrated transmission service. Power and energy are then transmitted through the Rogers Substation's 230/69 kilovolts ("kV") transformers to the City's two (2) radial 69 kV lines and then to four (4) City-owned and operated 12 kV electrical distribution substation facilities. Power is then transmitted and distributed to the City's service area through associated distribution transformers and lines. As of Fiscal Year 2022/23, there were approximately 66 miles of overhead primary and approximately 107 miles of underground primary distribution lines that distribute power to the City's end-use customers.

The table below contains information with respect to the City’s Electric System.

**Current Electric System Fees and Charges**

Description of Electric Services	Fee/Charge (a) Fiscal Year 2022/23
Residential Electric Service = E1.1	
Monthly Bill Per Meter	
<b>May 1 to October 31<sup>st</sup></b>	
Customer Charge	\$14.50
Usage Charge	
First 1200 kWh	\$0.05231 per kWh
> 1200 kWh	\$0.04822 per kWh
<b>November 1 to April 30<sup>th</sup></b>	
Customer Charge	\$14.50
Usage Charge	
First 800 kWh	\$0.04151 per kWh
> 800 kWh	\$0.01800 per kWh
Energy Cost Adjustment Factor (b)	
Minimum	\$14.50
Non-Residential Service = E3.1	
Monthly Bill Per Meter	
<b>May 1 to October 31<sup>st</sup></b>	
Customer Charge (c)	\$15.74
Demand Charge	
Generation	
First 50 kW	\$0.00 per kW
>50 kW	\$3.52 per kW
Distribution	
First 50 kW	\$0.00 per kW
>50 kW	\$0.3968 per kW
Energy Cost Adjustment Factor(b)	
Distribution	
First 15,000 kWh	\$0.06491 per kWh
15,001-75,000 kWh	\$0.04331 per kWh
>75,000 kWh	\$0.02901 per kWh
<b>November 1 to April 30<sup>th</sup></b>	
Customer Charge (c)	\$15.74
Demand Charge	
Generation	
First 50 kW	\$0.00
>50 kW	\$3.20 per kW
Distribution	
First 50 kW	\$0.00
>50 kW	\$0.1150 per kW
Energy Cost Adjustment Factor (b)	
Distribution	
First 15,000 kWh	\$0.05375 per kWh
15,001-75,000 kWh	\$0.03877 per kWh
>75,000 kWh	\$0.02060 per kWh

- (a) The City may require special service agreements for consumers requiring large electric loads.
- (b) The Energy Cost Adjustment Factor is a monthly per kilowatt hours (“kWh”) charge that was implemented November 1, 2004, which allows for the full recovery of the costs of fuel and purchased power. The average Fiscal Year 2022/23 factor for residential was \$0.08849 per kWh and the average Fiscal Year 2022/23 factor for non-residential was \$0.07714 per kWh.

- (c) Monthly Customer Charge for single phase E3.1 customers. Monthly Customer Charge for three phase E3.1 customers is \$9.72.

Source: The City. The information above reflects only certain basic fees and charges of the City’s Electric System and is not a comprehensive statement of all such fees.

**Electric System Rate Changes  
(2018 - 2023)**

Date	Rate Change
January 1, 2023	\$0.00
February 1, 2022	\$1.50 & \$2.50 (a)
January 1, 2021	\$1.00 (b)
August 1, 2020	\$1.00 (c)
August 1, 2019	\$0.00
August 1, 2018	\$1.00 (d)

- 
- (a) For residential customers, the monthly fixed component of rates (Electric System Service Charge) was increased by \$1.50. For commercial customers, the monthly fixed component of rates was increased by \$2.50.
- (b) For residential and commercial customers, the monthly fixed component of rates (Electric System Service Charge) was increased by \$1.00.
- (c) For residential customers only, the monthly fixed component of rates (Electric System Service Charge) was increased by \$1.00.
- (d) For residential customers only, the monthly fixed component of rates (Electric System Service Charge) was increased by \$1.25.

Source: The City.

**Electric System Customers  
(Fiscal Years 2018/19 - 2022/23) (a)**

Fiscal Year	Residential Customers	Commercial Customers	Other Customers	Total Customers
2022/23	15,082	2,546	223	17,851
2021/22	14,782	2,565	226	17,573
2020/21	14,778	2,517	224	17,519
2019/20	14,467	2,335	224	17,026
2018/19	14,453	2,347	218	17,018

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- (a) Electric system customers as of June 30 for each Fiscal Year or “Fiscal Year End” customers.

Source: The City.



The following is a list of the ten largest Electric System customers in alphabetical order for Fiscal Year 2022/23.

**Ten Largest Electric System Customers (a)**

Arizona State University-East  
Bashas Market  
Benedictine University  
Centurylink, Inc.  
Ensemble Mesa Partners, LLC  
Epicurean Fine Food, Inc.  
Mesa Cold Storage, Inc.  
Mesa Public Schools  
Rohrer Corporations  
Valley Metro Rail

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(a) This represents an aggregation of all of the electric meters under each customer and so each entity may have multiple meters and/or locations.

The combined 2022/23 Electric System fees/charges for the top ten Electric System customers set forth above was \$3.4 million, constituting \_\_\_% of the total 2022/23 Electric System operating revenue. No individual Electric System customer above constitutes more than \_\_\_% of the total 2022/23 Electric System operating revenue. Additionally, while the list above is representative of the top ten Electric System customers as of Fiscal Year 2022/23, customer consumption can fluctuate, among other things, with customer process changes, efficiency enhancement, changes to business practices and locations, and the weather. This can result in yearly shifts in the rankings of the specific customers. However, the City consistently uses budget forecasting methods to account for such variances.

The City also receives electric services from the Electric System and records the revenue as interdepartmental revenue. For Fiscal Year 2022/23, Electric System interdepartmental revenues were \$5.1 million. The City as a customer constitutes approximately \_\_\_% of the total 2022/23 Electric System operating revenue.

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Source: The City.

**Natural Gas System**

The City Energy Resources Department’s Natural Gas Utility System (“Natural Gas System”) has been in operation since 1917 and was ranked by the American Public Gas Association (“APGA”) as of Fiscal Year 2022/23, as the 13th largest publicly-owned natural gas utility system in the United States in terms of customers served. The Natural Gas System’s service territory is comprised of two major service areas: 1) the City Service Area (“CSA”) of approximately 90 square miles within the City limits; and 2) the Magma Service Area (“MSA”), a 236 square mile system located southeast of the City in Pinal County, Arizona. As of Fiscal Year 2022/23 year end, the City’s combined Natural Gas System operated 1,500 miles of distribution mains and served approximately 74,355 total customers comprised of 71,725 residential and 2,630 commercial and other customers.

The City’s Natural Gas System’s natural gas supplies and associated contracts have been structured to fulfill not only existing system requirements but anticipate system growth and peak needs of that growth. During Fiscal Year 2022/23, the Natural Gas System’s natural gas supplies were provided by BP Energy Company (“BP”). The natural gas supplies provided by BP came from both the San Juan Basin in New Mexico and the Permian Basin in West Texas through three separate contract.

The natural gas was transported via a major pipeline system owned and operated by El Paso Natural Gas Company LLC, a Kinder Morgan company (“EPNG”). EPNG provided the transport service under the terms and conditions of Transportation Service Agreements (“TSA”) No. FT2AF000 and No. FT2AE000 that were effective February 1, 2013. During Fiscal Year 2013/14, TSA No. FT2AE000 was extended for 10 years effective July 1, 2014, given that it was due to expire June 30, 2014; TSA No. FT2AF000 continues on an “evergreen” year-to-year basis. The TSAs provide the City’s Natural Gas System with the ability to transport its total, daily natural gas supplies to the current five (5) Natural Gas System-owned gate stations located in both the CSA and MSA. Although transmission is anticipated to be adequate

to accommodate normal growth in the system, constraints on interstate and regional transmission have been identified as potential limiting factors.

For Fiscal Year 2022/23, the Natural Gas System experienced a total coincident hourly system peak demand of 1,165 dekatherms per hour (“DTh/hr”) on January 24th, 2023 in the CSA and a peak demand of 655DTh/hr on January 24th, 2023 in the MSA. Total natural gas supply deliveries at the Natural Gas System’s gate stations during Fiscal Year 2022/23 were 4,237,267 dekatherms (“DTh”). Facilities and distribution infrastructure necessary to provide service to the majority of the CSA has been completed with the exception of infill projects. Continued growth of the Natural Gas System, especially in the MSA will require the extension of distribution mainlines and associated infrastructure in order to serve developing residential and commercial areas.

The following tables provide information with respect to the City’s Natural Gas System.

**Current Natural Gas System Fees and Charges**

Description of Natural Gas Services	Fee/Charge Fiscal Year 2022/23
<b>City Service Area Residential Gas Service = G1.1</b>	
<b>May 1st through October 31<sup>st</sup></b>	
Gas System Service Charge	\$16.56
First 25 Therms	\$0.6685 / therm
All Additional Therms	\$0.2884 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>November 1st through April 30<sup>th</sup></b>	
Gas System Service Charge	\$19.49
First 25 Therms	\$0.6685 / therm
All Additional Therms	\$0.6557 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>City Service Area General Gas Service = G3.1</b>	
<b>May 1st through October 31<sup>st</sup></b>	
Monthly Service Charge	\$39.66
First 1500 Therms	\$0.5333 / therm
All Additional Therms	\$0.3359 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>November 1st through April 30<sup>th</sup></b>	
Monthly Service Charge	\$49.34
First 1500 Therms	\$0.5775 / therm
All Additional Therms	\$0.4852 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>Magma Service Area Residential Gas Service = GM1.1</b>	
<b>May 1st through October 31<sup>st</sup></b>	
Gas System Service Charge	\$17.55
First 25 Therms	\$0.7370 / therm
All Additional Therms	\$0.3179 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>November 1st through April 30<sup>th</sup></b>	
Gas System Service Charge	\$20.79
First 25 Therms	\$0.7370 / therm
All Additional Therms	\$0.7231 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>Magma Service Area General Gas Service = GM3.1</b>	
<b>May 1st through October 31<sup>st</sup></b>	
Monthly Service Charge	\$46.48
First 1500 Therms	\$0.6587 / therm
All Additional Therms	\$0.4148 / therm
Natural Gas Supply Cost Adjustment (a)	
<b>November 1st through April 30<sup>th</sup></b>	
Monthly Service Charge	\$58.41
First 1500 Therms	\$0.7132 / therm
All Additional Therms	\$0.5992 / therm
Natural Gas Supply Cost Adjustment (a)	

(a) The Natural Gas Supply Cost Adjustment allows for the full recovery of the cost of natural gas. It is a monthly per billed therm charge. The average factor for Fiscal Year 2022/23 for residential and general service was \$0.59066 per therm.

Source: The City. The table above reflects only certain basic fees and charges of the City’s Natural Gas System and is not a comprehensive statement of all such fees.

**Natural Gas System Rate Changes  
(2018-2023)**

Date	Rate Changes
January 1, 2023	\$0.75 & \$2.00 (a)
February 1, 2022	\$0.50 (b)
January 1, 2021	\$0.25 & \$2.00 (c)
August 1, 2020	\$0.75 & \$2.00 (d)
August 1, 2019	\$0.00
August 1, 2018	\$0.45 (e)

- 
- (a) The increase in the monthly fixed component of rates (Service Charge) affected both residential (\$0.75) and non-residential customers (\$2.00).
  - (b) The increase in the monthly fixed component of rates (Service Charge) affected only residential customers.
  - (c) The increase in the monthly fixed component of rates (Service Charge) affected both residential (\$0.25) and non-residential customers (\$2.00).
  - (d) The increase in the monthly fixed component of rates (Service Charge) affected both residential (\$0.75) and non-residential customers (\$2.00).
  - (e) The increase in the monthly fixed component of rates (Service Charge) affected both residential and non-residential customers.

Source: The City.

**Natural Gas System Customers  
(Fiscal Years 2018/19 - 2022/23) (a)**

Fiscal Year	Residential Customers	Commercial Customers	Other Customers	Total Customers
2022/23	71,725	2,394	236	74,355
2021/22	69,595	2,353	234	72,182
2020/21	67,718	2,331	232	70,281
2019/20	66,061	2,338	225	68,624
2018/19	63,472	2,294	227	65,993

- 
- (a) Natural gas system customers as of June 30 for each Fiscal Year or “Fiscal Year End” customers.

Source: The City.

The following is a list of the ten largest Natural Gas System customers in alphabetical order for Fiscal Year 2022/23.

**Ten Largest Natural Gas System Customers (\*)**

Arizona Corrugated Container  
Banner Corporate Center - Mesa  
Commercial Metals Company  
Dexcom, Inc  
Empire Southwest LLC  
Mesa Organic Baking CO., INC.  
Mesa Public Schools  
Pacific Standard Specialties, INC  
Regional Public Transit Authority  
Waste Management of Arizona, INC

- 
- (a) This represents an aggregation of all of the electric meters under each customer and so each entity may have multiple meters and/or locations.

The combined Fiscal Year 2022/23 Natural Gas System fees/charges for the top ten Natural Gas System customers set forth above was \$7.7 million, constituting \_\_\_% of the total Fiscal Year 2022/23 Natural Gas System operating revenue. No individual Natural Gas System customer constitutes more than \_\_\_% of the total Fiscal Year 2022/23 Natural Gas System operating revenue. Additionally, while the list above is representative of the top ten Natural Gas System customers as of Fiscal Year 2022/23, customer consumption can fluctuate, among other things, with customer process changes, efficiency enhancement, changes to business practices and locations and the weather. This can result in yearly shifts in the rankings of the specific customers. However, the City consistently uses conservative budget forecasting methods to account for such variances.

The City receives gas services from the Natural Gas System and records the revenue as interdepartmental revenue. For Fiscal Year 2022/23 Natural Gas System interdepartmental revenues for the City were \$1.4 million.

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Source: The City.

### **Water System**

The water utility system of the City (the “Water System”) serves a population of over 516,429 residing within a 158 square mile area. The Water System currently consists of approximately 164,054 residential, commercial and other connections. The City is well positioned to provide reliable delivery of quality water to meet current and future demands.

Water is provided from three general sources: the Salt and Verde River system, the Colorado River via the Central Arizona Project (“CAP”) canal, and groundwater wells. In addition, the City has rights to stored groundwater in an amount equal to approximately five times its annual demand to mitigate future drought. The City is currently designated with a 100-Year Assured Water Supply by the Arizona Department of Water Resources. The City has adequate supplies for normal growth and has worked hard to provide current and future availability of water supplies for normal and drought conditions. The City has also adopted regulations which require new large water users to acquire additional supplies to accommodate their consumption.

Surface water from the Salt and Verde Rivers is treated at the Val Vista Water Treatment Plant. The plant is jointly owned by the City and the City of Phoenix (“Phoenix”). Currently, the plant has a treatment capacity of 220 million gallons per day (“mgd”), of which the City owns 90 mgd. The plant produces approximately 35% of the water delivered by the City.

Colorado River water is delivered to the City via the CAP Canal. The water is treated at the Brown Road Water Treatment Plant (“BRWTP”) and the Signal Butte Water Treatment Plant (“SBWTP”). Currently the BRWTP has a treatment capacity of 72 mgd and produces approximately 36% of the City’s water. SBWTP has a treatment capacity of 24 mgd and produces approximately 23% of the City’s water. SBWTP Phase II Expansion project is currently underway, construction is expected to begin in the winter of 2023. This expansion project will add 24 mgd of treatment capacity and 8 million gallons of storage.

Groundwater wells produce the remaining 6% of the water delivered by the City on an average day. The City currently has 35 active groundwater wells with a pumping capacity of approximately 87 mgd. The continued development of new wells provides water supplies for future growth, but more importantly, provides redundancy in case of drought, scheduled maintenance of surface water canals, or operational issues within the surface water system.

In addition to the plants and wells outlined above, the City has 19 reservoirs and other storage facilities in the Water System service area capable of holding 109 million gallons of treated water. The City has approximately 2,613 miles of water distribution mains. A backflow prevention program has been implemented to protect the quality of the drinking water from possible sources of contamination. The total current capacity of the Water System is approximately 245 mgd. The record peak demand day occurred in 2005 and amounted to approximately 138 million gallons of water delivered. The average demand in calendar year 2022 was 83.9 mgd, with a peak day of 120.3 million gallons.

The City is actively involved in promoting water conservation. As public education plays a large role in conservation, the City makes available a variety of free publications, participates in community and business sponsored events, maintains a speaker’s bureau, and sponsors a youth education program. The City has also instituted a rebate program for low water use landscaping, and has generally incorporated an inclining block rate structure to encourage water conservation.

The City's water master plan was last updated in 2018. An update to the water master plan is currently underway and will be completed in 2024.

The following tables provide information with respect to the City's Water System.

**Current Water System Fees and Charges**

Description of Water System Services	Fees/Charges Fiscal Year 2022/23
<b>Monthly Minimum Bill-All Classes, All Zones*</b>	
3/4 Inch	\$30.03
1 Inch	\$33.64
1 1/2 Inch	\$47.09
2 Inches	\$61.77
3 Inches	\$122.33
4 Inches	\$193.76
6 Inches	\$371.06
8 Inches	\$549.49
10 Inches	\$744.42
*Includes the first 3,000 gallons of water as a minimum charge for capacity availability	
<b>Monthly Volume Charge - Residential</b>	
First 7,000 Gallons of Water	\$3.41/1,000 Gallons
Next 8,000 Gallons of Water	\$5.12/1,000 Gallons
Next 9,000 Gallons of Water	\$6.18/1,000 Gallons
Additional Usage	\$6.90/1,000 Gallons

Source: The City. The table above reflects only certain basic fees and charges of the City's Water System and is not a comprehensive statement of all such fees.

**Water System Rate Changes  
(2018-2023)**

Date	Rate Change
January 1, 2023	2.75%
February 1, 2022	2.50
January 1, 2021	1.50
July 1, 2020	0.00
July 1, 2019	0.00
July 1, 2018	2.00

Source: The City.

**Water System Customers  
(Fiscal Years 2018/19 - 2022/23)**

Fiscal Year	Residential Customers	Commercial Customers	Multi-Unit Customers	Total Customers
2022/23	140,104	12,414	4,697	157,215
2021/22	139,209	12,067	4,663	155,939
2020/21	137,538	11,330	4,615	153,483
2019/20	136,045	11,106	4,619	151,770
2018/19	133,610	10,787	4,590	148,987

Source: The City. The schedule immediately above reflects customers as of June 30 for each Fiscal Year.

The following is a list of the ten largest Water System customers in in alphabetical order for Fiscal Year 2022/23.

### **Ten Largest Water System Customers**

Banner Corporate Center - Mesa  
Cal-Am, Inc.  
Commercial Metal Company  
Eastmark Residential Association  
Gilbert Public Schools  
Mesa Public Schools  
Niagara Bottling LLC  
Platypus Development, LLC  
Redale LLC  
The Church of Jesus Christ of Latter-Day Saints

The combined Fiscal year 2022/23 Water System fees/charges for the top ten Water System customers set forth above was \$8.8 million constituting \_\_\_% of the total Fiscal Year 2022/23 Water System operating revenue. Additionally, while the list above is representative of the top ten Water System customers as of Fiscal Year 2022/23, customer consumption can fluctuate, among other things, with customer process changes, efficiency enhancement, changes to business practices and locations and the weather. This can result in yearly shifts in the rankings of the specific customers. However, the City consistently uses budget forecasting methods to account for such variances.

The City also receives water services from the Water System and records the revenue as interdepartmental revenue. For Fiscal Year 2022/23 Water System interdepartmental revenues for the City were \$3.8 million.

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Source: The City.

### **Wastewater System**

The City's wastewater collection system (the "Wastewater System") currently serves approximately 135,295 connections.

The Phoenix-operated 91<sup>st</sup> Avenue Wastewater Treatment Plant ("WWTP"), which is jointly owned by the City, Phoenix, and three other nearby municipalities within the Sub-Regional Operating Group ("SROG"), currently has a 205 mgd capacity. The City's share of that amount is approximately 29 mgd.

The City's Northwest Water Reclamation Plant ("NWWRP") currently has a treatment capacity of 18 mgd. Reclaimed water from the NWWRP is currently primarily delivered to the Granite Reef Underground Storage Project where it is stored to meet future potable water demands. The NWWRP also has solids treatment processing capabilities.

The Southeast Water Reclamation Plant ("SEWRP") serves the northeastern part of the City and has a plant liquids handling capacity of 8 mgd. Bio-solids from the SEWRP are sent to the Phoenix-operated 91st Avenue Wastewater Treatment Plant ("WWTP") for further processing. Substantial components of this facility are nearing the end of useful service, and it is being carefully reviewed by the City with respect to future operations.

The Greenfield Water Reclamation Plant ("GWRP") is a regional plant operated by the City, and co-owned with the Towns of Gilbert and Queen Creek. The GWRP serves the southeast portion of the City and a segment of the northeast portion of the City. The GWRP liquids treatments capacity is currently 30 mgd of which the City of Mesa owns 14 mgd and has a bio-solids processing capacity of 38 mgd of which the City owns 22 mgd.

Reclaimed water from the SEWRP and the GWRP is delivered to the Gila River Indian Community (the "Community") for agricultural use as part of a contractual water exchange. Through this exchange, the City receives four acre-feet of CAP water for delivery by its potable system for every five acre-feet of reclaimed water that is delivered to the Community. The Central Mesa Reuse Pipeline ("CMRP") project will allow reclaimed water from the City's NWWRP to be delivered to the Community. This project, expected to be completed by late 2025, will improve upon the existing contractual water exchange and enhance the City's CAP water portfolio. Moreover, this project will provide for additional redundancy in case of drought, and further support future customer demand and economic development in southeast Mesa.

In addition to the various treatment facilities outlined above, the City has approximately 1,834 miles of sewer mains, 15 lift stations, 21 odor control stations, 8 metering stations, and 41 diversion structures in its wastewater collection system. In addition, the City is part owner in the Baseline/Southern Interceptors, and the Salt River Outfall interceptor mains that transport sludge and wastewater to the 91<sup>st</sup> Avenue WWTP. The City’s Wastewater System master plan was last updated in 2018. An update to the wastewater master plan is currently underway and will be completed in 2024.

The City’s Wastewater System and current agreements allow for a treatment capacity of approximately 60 mgd. The average during calendar year 2022 was 33.8 mgd, with a peak day of 36.6 million gallons.

The following tables provide information with respect to the City’s Wastewater System.

**Current Wastewater System Fees and Charges**

Description of Wastewater System Services	Fee/Charge Fiscal Year 2022/23
<b>Residential Sewer Service - Inside City</b>	
Monthly Bill	
Service Charge	\$21.41
User Charge Component (average winter water consumption)	\$1.76/ 1,000 gallons
Capital Related Component (average winter water consumption in excess of 5,000 gallons)	\$3.18/ 1,000 gallons
<b>General Commercial Sewer Service - Inside City</b>	
Monthly Bill	
Service Charge	\$23.37
User Charge Component (all water used)	\$1.87 / 1,000 gallons
Capital Related Component (all water used in excess of 5,000 gallons)	\$3.36 / 1,000 gallons
<b>Multi-Unit Dwelling Sewer Service - Inside City</b>	
Monthly Bill	
Service Charge	\$23.37
User Charge Component (all water used)	\$1.87/ 1,000 gallons
Capital Related Component (all water used in excess of 5,000 gallons)	\$3.36/ 1,000 gallons

Source: The City. The table above reflects only certain basic fees and charges of the City’s Wastewater System and is not a comprehensive statement of all such fees.

**Wastewater System Rate Changes  
(2018-2023)**

Date	Rate Change
January 1, 2023	4.25%
February 1, 2022	3.00
January 1, 2021	3.50
July 1, 2020	0.00
July 1, 2019	0.00
July 1, 2018	2.50

Source: The City.



**Wastewater System Customers  
(Fiscal Years 2018/19 - 2022/23)**

Fiscal Year	Residential Customers	Commercial Customers	Multi-Unit Customers	Industrial Customers	Other Customers	Total Customers
2022/23	130,345	5,492	4,562	0	609	141,008
2021/22	129,279	5,427	4,533	0	608	139,847
2020/21	127,376	5,331	4,481	0	510	137,698
2019/20	125,645	5,248	4,478	0	598	135,969
2018/19	123,414	5,737	4,458	0	0	133,609

Source: The City. The schedule immediately above reflects customers as of June 30 for each Fiscal Year.

**Ten Largest Wastewater System Customers**

Arizona State University-East  
Banner Corporate Center - Mesa  
Cal-Am Properties, Inc.  
Casa Fiesta Tempe Ltd. Ptsp.  
Fry's Food Stores  
International Rectifier EPI Services  
Mesa Public Schools  
MHC Viewpoint, LLC  
Niagara Bottling Llc.  
Town of Gilbert

The combined Fiscal Year 2022/23 Wastewater System fees/charges for the top ten Wastewater System customers set forth above was \$5.1 million constituting \_\_\_% of the total Fiscal Year 2022/23 Wastewater System operating revenue. Additionally, while the list above is representative of the top ten Wastewater System customers as of Fiscal Year 2022/23, customer consumption can fluctuate, among other things, with customer process changes, efficiency enhancement and changes to business practices and locations. This can result in yearly shifts in the rankings of the specific customers. However, the City consistently uses budget forecasting methods to account for such variances.

The City receives wastewater services from the Wastewater System and records the revenue as interdepartmental revenue. For Fiscal Year 2022/23 Wastewater System interdepartmental revenues for the City were \$0.4 million.

Source: The City.

**Solid Waste System**

The City’s solid waste system (the “Solid Waste System”) is the exclusive provider of solid waste collection services to single family residences located within the City. Standard residential solid waste service includes once per week collection of trash. The residential Solid Waste System currently consists of approximately 138,736 customers. The City continues to operate a permanent Household Hazardous Materials (HHM) facility.

The City competes with private solid waste hauler and collection services for commercial customers within the City. The City commercial program has approximately 2,357 customers. The City also provides roll off services to both residential and commercial customers and serves approximately 1,326 customers.

The City has agreements with multiple vendors that operate landfills, transfer stations and recycling centers for the disposal of solid waste and processing of recyclable materials. These additional facilities allow the City to reduce its overall operating costs. These facilities meet all Federal Subtitle D requirements.

**Current Solid Waste System Fees and Charges  
Residential Solid Waste System Monthly Billing (Fiscal Year 2022/23)**

Rates Applicable Per Dwelling Unit (4 or Less Residential Units Per Structure)  
R1.2, R1.2A, R1.2B, R1.21, R1.22, R1.23, R1.28

- Rate R1.2\*: \$30.52 per dwelling unit for once per week 90 gallon trash barrel and recycling barrel collection.
- Rate R1.2A\*: \$27.24 per dwelling unit for once per week 60 gallon trash barrel and recycling barrel collection.
- Rate R1.2B\*: \$25.67 per dwelling unit for once per week 35 gallon trash barrel and recycling barrel collection.
- Rate R1.21: \$14.41 per additional 90 gallon trash barrel collected on the same day as the first trash barrel. Service will be billed for a minimum of six months. This rate is only eligible for R1.2, R1.24 and R1.29 customers.
- Rate R1.22: \$14.41 per additional 60 gallon trash barrel collected on the same day as the first trash barrel. Service will be billed for a minimum of six months.
- Rate R1.23: \$32.75 for the first 90 gallon trash barrel in addition to the R1.2 or R1.24 rate for twice per week trash collection. A \$14.55 service fee applies to each additional barrel that is serviced twice per week.
- Rate R1.28: \$7.21 per 90 gallon green waste barrel collected once per week in conjunction with City of Mesa trash service. Service will be billed for a minimum of six months.

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\* An \$0.96 per billing cycle Mesa Green and Clean fee will be assessed to each dwelling unit

Rates Applicable Per Dwelling Unit (5 or More Residential Units Per Structure)  
R1.21, R1.22, R1.23, R1.24, R1.25, R1.28

- Rate R1.24\*: \$27.24 per dwelling unit for a multi-unit structure with five or more residential units for once per week 90 gallon trash barrel and recycling barrel collection when the water account servicing the units is active with one bill payee.
- Rate R1.25\*: \$27.24 per dwelling unit for a multi-unit structure with five or more residential units for once per week 60 gallon trash barrel and recycling barrel collection when the water account servicing the units is active with one bill payee.
- Rate R1.21: \$14.41 per additional 90 gallon trash barrel collected on the same day as the first trash barrel. Service will be billed for a minimum of six months. This rate is only eligible for R1.2, R1.24 and R1.29 customers.
- Rate R1.22: \$14.41 per additional 60 gallon trash barrel collected on the same day as the first trash barrel. Service will be billed for a minimum of six months.
- Rate R1.23: \$32.75 for the first 90 gallon trash barrel in addition to the R1.2 or R1.24 rate for twice per week trash collection. A \$14.55 service fee applies to each additional barrel that is serviced twice per week.
- Rate R1.28: \$7.21 per 90 gallon green waste barrel collected once per week in conjunction with City of Mesa trash service. Service will be billed for a minimum of six months.

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\* An \$0.96 per billing cycle Mesa Green and Clean fee will be assessed to each dwelling unit

Rates Applicable Per Dwelling Unit (Every Other Week Recycling)  
R1.28, R1.29, R2.9A, R2.9B

Rate R1.29*:	\$29.53 per dwelling unit for once per week 90 gallon trash barrel collection and every other week recycling barrel collection.**
Rate R2.9A*:	\$26.23 per dwelling unit for once per week 60 gallon trash barrel collection and every other week recycling barrel collection.**
Rate R2.9B*:	\$24.69 per dwelling unit for once per week 35 gallon trash barrel collection and every other week recycling barrel collection.**
Rate R1.28:	\$7.21 per 90 gallon green waste barrel collected once per week in conjunction with City of Mesa trash service. Service will be billed for a minimum of six months.

\* A \$0.96 per billing cycle Mesa Green and Clean fee will be assessed to each dwelling unit. Service will be billed for a minimum of six months.

\*\* Applicability subject to approval of the Solid Waste Division of the City’s Environmental Management and Sustainability Department.

**Commercial Solid Waste System Monthly Billing**

Rate R3.8, R6.2:	\$30.52 for the first 90 gallon trash barrel and recycling barrel for once per week collection.
Rate R3.8A, R6.2A:	\$27.24 for the first 60 gallon trash barrel and recycling barrel for once per week collection.
Rate R3.81, R6.21:	\$14.41 per additional 90 gallon trash barrel for once per week collection on same geographic in-zone day as the first barrel. This rate is only eligible for R3.8 and R6.2 customers. Service will be billed for a minimum of six months.
Rate R3.83, R6.23:	\$14.41 per additional 60 gallon trash barrel for once per week collection on same geographic in-zone day as the first barrel. Service will be billed for a minimum of six months.
Rate R3.82, R6.22:	\$32.75 for the first 90 gallon trash barrel in addition to the above R3.8, R6.2 rate for twice per week collection. A \$14.55 service fee applies to each additional barrel that is serviced twice per week.
Rate R3.88, R6.28:	\$7.21 per 90 gallon green waste barrel collected once per week in conjunction with City of Mesa trash service. Service will be billed for a minimum of six months.

Source: The City. The table above reflects only certain basic fees and charges of the City’s Solid Waste System and is not a comprehensive statement of all such fees.

**Solid Waste System Residential Rate Changes  
(2018-2023)**

<u>Date</u>	<u>Rate Change</u>
February 1, 2023	2.00%
February 1, 2022	2.00
January 1, 2021	0.00
March 1, 2020	0.00
July 1, 2019	0.00
July 1, 2018	2.00

Source: The City.

**Solid Waste System Customers  
(Fiscal Years 2018/19 - 2022/23)**

Fiscal Year	Residential Customers	Commercial Customers	Roll Off Customers (a)	Total Customers
2022/23	138,736	2,357	1,326	142,419
2021/22	138,502	2,482	1,632	142,616
2020/21	136,462	2,429	1,689	140,580
2019/20	135,463	2,416	1,629	139,508
2018/19	131,992	2,271	1,695	135,958

(a) Fiscal Year 2018/19 was originally calculated using the average number of permanent roll off customers each year. This number has been revised to reflect all roll off customer types and includes the total number of customers served annually with the City’s roll off business.

Source: The City. The schedule immediately above reflects customers as of June 30 for each Fiscal Year.

The following is a list of the ten largest Solid Waste System Customers in alphabetical order for Fiscal Year 2022/23.

**Ten Largest Solid Waste System Customers**

- American Homes 4 Rent, LLC
- Cal-Am Properties, Inc.
- Casa Fiesta Tempe Limited Partnership
- Mesa Public Schools
- MHC Monte Vista, LLC
- MHC Viewpoint, LLC
- Mobile Home Communities, Inc.
- MPS-Refuse Only Accounts
- Norton S. Karno, APC ERT
- Tesoro at Greenfield Condominium Association

The combined Fiscal Year 2022/23 Solid Waste System fees/charges for the top ten Solid Waste System customers set forth above was \$2.7 million constituting \_\_\_% of the total Fiscal Year 2022/23 Solid Waste System operating revenue. No individual Solid Waste System customer above constitutes more than \_\_\_% of the total Fiscal Year 2022/23 Solid Waste System operating revenue.

The City receives solid waste services from the Solid Waste System and records the revenue as interdepartmental revenue. For Fiscal Year 2022/23 Solid Waste System interdepartmental revenues for the City were \$0.6 million.

Source: The City.

**Billing and Collection Procedures**

The City bills its utility customers in cycles throughout the month with each customer being billed at approximately the same time every month. Electric, gas and water accounts are based on meter readings, wastewater charges are based on water usage and solid waste disposal fees vary depending on the size of the containers and frequency of collections.

The City’s collection procedures for delinquent utility accounts involve a series of billings and notices with a discontinuance of service at the end of 72 days. Due to the collection procedures, utility deposits required on various accounts and the nature of the service being provided, the City has experienced write-offs at or below one-quarter of one percent during the past three fiscal years.

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**CITY OF MESA, ARIZONA**

**AUDITED GENERAL PURPOSE FINANCIAL STATEMENTS FOR  
THE FISCAL YEAR ENDED JUNE 30, 2022**

The following audited financial statements are the most recent available to the City. These audited financial statements are not current and may not represent the current financial conditions of the City.

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**SUMMARY OF THE MASTER BOND RESOLUTION, AS AMENDED**



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## SUMMARY OF THE MASTER BOND RESOLUTION, AS AMENDED

The following is a summary of certain provisions of the Resolution No. 6362 adopted by the City Council of the City of Mesa on July 29, 1991, as amended by Resolution No. 7960 adopted by the City Council of the City on February 3, 2003, as thereafter supplemented and amended. The amendment in 2003 changed the requirements pertaining to the Reserve Fund. This summary does not purport to be a full statement of the terms of the Master Bond Resolution and, accordingly, is qualified by reference hereto and is subject to the full text thereof.

### Definitions

**“Agreement”** – any Reserve Fund Guaranty Agreement.

**“Assumed Interest Rate”** – an Interest Rate for Variable Rate Obligations computed in the manner set forth in the initial Agreement.

**“Average Annual Debt Service”** – at computation, the average of each Bond Year’s aggregate scheduled Bond principal (including mandatory redemptions) and interest requirements with Variable Rate Obligations deemed to bear interest at the Assumed Interest Rate).

**“Bond Insurer”** – with respect to each series of Parity Bonds, an issuer of a Municipal Bond Insurance Policy pertaining to any Bonds.

**“Bonds”** – all bonds issued and outstanding on parity pursuant to the Master Bond Resolution and all Parity Bonds hereafter authorized to be issued.

**“Bond Year”** – the one-year period commencing each July 2 and ending on the next forthcoming July 1. A Bond Year shall correspond to the Fiscal Year beginning on July 1 of the same year and ending on June 30 of the next year.

**“Capital Appreciation Bonds”** – Parity Bonds whose interest component is compounded semiannually on stated dates until maturity or until converted to Bonds paying interest semiannually, if so permitted or required.

**“Chief Financial Officer”** – the City’s Deputy City Manager and Chief Financial Officer.

**“Council”** – the governing body of the City.

**“Deficiency”** – the difference between (i) the total amount then due on a principal or interest payment date for the Bonds and (ii) the then amount of deposit in the Bond Fund (excluding payments made under a Municipal Bond Insurance Policy).

**“Drawdown”** – any amount drawn by the Paying Agent under any Reserve Fund Guaranty.

**“Drawdown Date”** – the date of any Drawdown.

**“Master Bond Resolution”** – the Master Bond Resolution adopted by the Mayor and City Council of the City of Mesa on July 29, 1991, as thereafter supplemented and amended.

**“Maximum Annual Debt Service”** – at computation, the greatest scheduled Bond principal (including mandatory redemptions) and interest requirements (Variable Rate Obligations shall be deemed to bear interest at the Assumed Interest Rate) occurring in the then current, or any subsequent, Bond Year.

**“Municipal Bond Insurance Policy”** – any irrevocable municipal bond insurance policy insuring payment of the principal and interest on any Bonds.

**“Net Revenues”** – those Revenues remaining after deducting Operating Expenses.

**“Operating Expenses”** – the reasonable and necessary costs of System operation, maintenance, and repair, but excluding depreciation and payments into the Bond, Reserve, Reimbursement and Rebate Funds.

**“Owner”** – any person who shall be the registered owner of any Bond or Bonds outstanding (for Book-Entry Bonds, the Depository).

**“Parity Bonds”** – the additional Bonds issued on a parity with the Bonds.

***“Policy Costs”*** – the amount necessary to reimburse a Reserve Fund Guarantor for any Drawdown(s) including the Drawdown amount, the Reserve Fund Guarantor’s expenses plus interest on the aggregate thereof at the Reimbursement Rate until paid.

***“Post-2002 Bonds”*** – Bonds originally issued after January 1, 2003.

***“Post-2002 Reserve Fund”*** – the Reserve Fund securing all Bonds originally issued after January 1, 2003.

***“Post-2002 Reserve Fund Guaranties”*** – an irrevocable surety bond, letter of credit or line of credit or insurance policy executed and delivered to the City or a Paying Agent for the City as a Post-2002 Reserve Fund Guaranty for purposes of the Master Bond Resolution.

***“Reimbursement Period”*** – for any Drawdown, the period from the Drawdown Date to the first anniversary of such Drawdown Date.

***“Reserve Fund”*** – the Post-2002 Reserve Fund; provided, however, that the Post-2002 Reserve Fund shall only secure the Post-2002 Bonds.

***“Reimbursement Rate”*** – the rate of interest to be paid by the City to reimburse a Reserve Fund Guarantor after a Drawdown.

***“Reserve Fund Guarantor”*** – with respect to any series of Bonds, the issuer of a surety bond, letter of credit or line of credit or insurance policy used as a Reserve Fund Guaranty, if issued by an entity whose Guaranty will not adversely affect the Bonds’ then-current rating.

***“Reserve Fund Guaranty”*** – any irrevocable surety bond, letter of credit or line of credit or insurance policy as a reserve fund guaranty used under the Master Bond Resolution.

***“Reserve Fund Value”*** – as to the Post-2002 Bonds, the value of moneys, investments and Reserve Fund Guaranties deposited to the Post-2002 Reserve Fund.

***“Reserve Requirement”*** – as to the Post-2002 Bonds, if required to be funded, an amount equal to Average Annual Debt Service of all outstanding Post- 2002 Bonds, which amount shall be adjusted upon the issuance of Post-2002 Parity Bonds to equal Average Annual Debt Service immediately after issuance, or the maximum amount of the Post-2002 Reserve Fund is then permitted to increase under Section 148 of the Internal Revenue Code of 1986, as amended, or any comparable statutory provision limiting the amount of a reasonably required Reserve and Replacement Fund.

***“Revenues”*** – all income, moneys and receipts derived from the System ownership; however, the term Revenues shall not include Bond proceeds or interest received on any investments placed irrevocably in trust to pay, or provide for the payment of, any Bond, Bonds being refunded or defeased or other outstanding revenue bonds originally secured in whole or in part by System Revenues, or amounts received which the City is contractually required to pay out as reimbursement for acquisition, construction or installations of System facilities.

***“Series 1991 Bonds”*** – the City of Mesa, Arizona, Utility Systems Revenue and Refunding Bonds, Series 1991.

***“Variable Rate Obligations”*** – any Parity Bonds which may, in the future, bear interest at rates which cannot be determined with specificity on their original issue date.

**Authorization of Bonds; Special Obligations.**

A. The Master Bond Resolution authorized the issuance and sale of the Series 1991 Bonds. Each supplemental resolution authorized the respective later series of Parity Bonds.

B. The Bonds are special obligations of the City payable solely from the Net Revenues and secured as to the payment of the principal and redemption price thereof, and interest thereon, in accordance with their terms and the provisions of the Master Bond Resolution. The Net Revenues are pledged and assigned as security for the Bonds. All Net Revenues shall be immediately subject to the pledge of the Master Bond Resolution and the lien of this pledge shall be valid and binding.

**Source of Payment and Pledge of Revenues.** The Bonds shall be payable solely from the Net Revenues. All of the Bonds shall be equally and ratably secured by a pledge thereof and a lien thereon without priority one over the other.

**Rate Covenant.** The City covenants and agrees with the Owners that it will establish and maintain System charges to provide Revenues sufficient to pay all Operating Expenses and to produce aggregate Net Revenues in each Fiscal year equal to one hundred twenty percent (120%) of the current principal and interest requirements on all Outstanding Bonds for the corresponding Bond Year (treating Variable Rate Obligations as bearing interest at the Assumed Interest Rate and Bonds subject to mandatory redemption as maturing on their respective mandatory redemption dates) and said rates, fees and other charges shall also be established and maintained at rates sufficient to provide an amount of Net Revenues for the then current Fiscal Year which, net of the aggregate amounts required to be deposited to the Bond Fund during such Fiscal Year, will be sufficient to provide at least one hundred percent (100%) of the City's Policy Costs due and owing in such Fiscal Year.

**Creation of Funds: Application of Revenues.**

A. The Chief Financial Officer shall create the following special funds and accounts: (1) the Revenue Fund; (2) the Bond Fund; (3) the Reimbursement Fund; (4) the Reserve Fund, containing the Post-2002 Reserve Fund, which Post-2002 Reserve Fund shall, if funded, contain the separate Capitalized Reserve Account and Contributed Reserve Account; (5) the Rebate Fund; (6) the Replacement Fund; and (7) the Construction Fund.

B. All Revenues shall be deposited as collected with a Depository, and shall be held in the custody of the Chief Financial Officer in the Revenue Fund. After providing sufficient moneys for the payment of any insufficiency in the income derived from the investments held in trust to service any Bonds being refunded and payment of the Operating Expenses, the Revenue Fund shall be disbursed only as follows and only in the following order of priority:

(1) **Bond Fund.** First, to the Bond Fund: (a) one-sixth (1/6th) of the interest becoming due on the next interest payment date on all of the Bonds then Outstanding and; (b) one-twelfth (1/12th) of the principal becoming due on the next succeeding principal or mandatory redemption payment date on all Bonds then Outstanding. The Bond Fund shall be a trust fund and shall be used solely for the purpose of paying the principal of and interest on the Bonds.

(2) **Reimbursement Fund.** Second, if a Drawdown occurs, to the Reimbursement Fund commencing the tenth (10th) day of the first month following a Drawdown and each month thereafter for the next succeeding eleven (11) months, or until the Reimbursement Fund contains amounts sufficient to reimburse all Policy Costs, or all Policy Costs with respect to such Drawdown have been paid, an amount equal to at least one-twelfth (1/12th) of such Policy Costs in the Reimbursement Fund shall be used only to pay Policy Costs. Policy Costs with respect to any Drawdown that occurs against more than one Reserve Fund Guarantor shall be reimbursed on a pro rate basis. Each Supplemental Resolution increased the amounts to be deposited to the Bond and other Funds to cover the respective deposits for the respective Parity Bonds then authorized. If the City fails to repay any Policy Costs, the Reserve Fund Guarantor(s) may exercise all remedies available at law or under the Master Bond Resolution other than (i) acceleration of the Bonds or (ii) remedies adversely affecting the Owner's rights. The Paying Agent acting as the Owners fiduciary shall hold all Reserve Fund Guaranties. Reserve Fund Guaranties shall expire no earlier than the final maturity date of the series for which said Guaranty applies.

(3) **Reserve Fund.** Third, on or before the tenth (10th) day of each month to the Reserve Fund an amount equal to one ninety-sixth (1/96th) of the amount required to restore the Post-2002 Reserve Value to the Post-2002 Reserve Requirement within an eight-year period, or such amount as is required to restore the Post-2002 Reserve Fund Value to the Post-2002 Reserve Requirement after a Reserve Fund withdrawal occurs as to the Post-2002 Reserve Fund. If, on any principal or interest payment date, a deficiency exists, then: (a) if there are investments or cash in the Post-2002 Reserve Fund, such investments shall be liquidated and the cash and investment proceeds transferred to the Bond Fund; and (b) if the deficiency is not then cured the Paying Agent shall deliver a request for Drawdown to the Reserve Fund Guarantor(s). All Drawdown and Reserve Fund proceeds shall be applied to the payment of the interest on, or principal of, the Bonds then due. The proceedings for the Post-2002 Bonds shall not require a deposit to the Post-2002 Reserve Fund unless the City is then required to fund a Post-2002 Reserve Fund; if the Parity Bonds are originally issued during a period the City is then required to maintain the Post-2002 Reserve Fund, the proceedings for such Parity Bonds shall provide for an increase in the Post-2002 Reserve Fund Value sufficient to meet the Post-2002 Reserve Fund Requirement immediately after the issuance of such Post-2002 Parity Bonds.

Drawdowns upon Reserve Fund Guaranties required to pay principal and interest will be replaced therein from the first money in the Revenue Fund thereafter received which is not required for current transfers into the Bond Fund pursuant to subparagraphs (1) or (2) of this subsection. The Post-2002 Reserve Fund shall contain two accounts, the Contributed Reserve Account and the Capitalized Reserve Account. The two accounts are created to segregate Post-2002 Reserve Fund Moneys and Investments to provide a means of tracking Post-2002 Reserve Fund deposits and investment income

thereon for purposes of the Internal Revenue Code of 1986, as amended, or any comparable provision requiring such tracking. All Post-2002 Reserve Fund deposits made from Net Revenues or other available moneys of the City shall be deposited to the Contributed Reserve Account. All Bond proceeds deposited to the Post-2002 Reserve Fund shall be deposited into the Capitalized Reserve Account. Any proceedings hereinafter taken with respect to the issuance of Parity Bonds may satisfy the amount to be deposited in either account, so long as the minimum amount required by the Master Bond Resolution to be deposited to the Post-2002 Reserve Fund shall be so deposited. All Post-2002 Reserve Fund Guaranties shall be deemed to be deposited to, and a part of the Post-2002 Reserve Fund Capitalized Reserve Account.

(4) **Rebate Fund.** Fourth, on or before 30 days after the last day of each Bond Year, to the Rebate Fund the amount determined necessary to cause the amount in the Rebate Fund to equal the cumulative arbitrage rebate obligation.

(5) **Replacement Fund.** Fifth, to the Replacement Fund at least 2% of the previous month's Revenues until at least 2% of the value of all tangible assets of the System as shown on the balance sheet in the most recent audit, has been so accumulated. The City may limit additional payments if the balance equals 2% of the value of all tangible assets of the System as shown by the most recent audit. Any money in such Fund may be used to: (a) Pay any sums due to the holders of Bonds being refunded if not paid from the income and proceeds of the investments held under a depository trust agreement. (b) Pay currently maturing the Bond principal and interest to the extent the Bond and the Reserve Funds are insufficiency for such purpose. (c) Acquire System properties. (d) Make other improvements or repairs to the System, including the payment of principal and interest on obligations issued for System purposes junior in lien to the Bonds.

C. All money remaining in the Revenue Fund after all of the payments required above have been made, may be used for any lawful City purpose. Moneys in the Revenue, Bond, Reserve, Reimbursement and Rebate Funds may be invested and reinvested by the City in Permitted Investments. All investment income, except Rebate Fund investment income, shall be regarded as System Revenues and deposited in the Revenue Fund. Such investments shall be liquidated as needed and the proceeds applied to the purpose for which the respective fund or account was created. Moneys in the Construction and Replacement Funds may be invested in any lawful investment.

D. The Construction Fund shall be divided into separate accounts in order to segregate proceeds from differing series of Bonds.

**Covenants Regarding the Operation of the System.** The City covenants and agrees with each and every Owner that it will: (A) maintain the System in good condition and operate the same in an efficient manner and at reasonable cost, and shall not provide free System services to any consumer or user; (B) maintain insurance on all System properties (which may be in the form of or include an adequately-funded self-insurance program) with coverage normally carried by municipalities or private companies engaged in a similar business. System self-insurance may be maintained either separately or in connection with any Citywide self-insurance program if any such program is in writing. The proceeds of any such insurance, except public liability insurance, received by the City shall be pledged as security for the Bonds until used to replace the System parts damaged or destroyed, or if not so used, shall be placed in the Revenue Fund; (C) keep proper books and accounts for the System, which will be audited at the end of each Fiscal Year in accordance with generally accepted governmental accounting practices; The City further will furnish copies of such audits to any Owner at their request, within one hundred eighty (180) days after the close of each Fiscal Year; (D) faithfully and punctually perform all legal duties with reference to the System; (E) not sell, lease, mortgage or in any manner dispose of the System or any part thereof, until all of the Bonds and the City's obligations under any Agreement shall have been paid in full except for the disposition of inexpedient property if the proceeds of the disposition are placed in the Revenue Fund; (F) prior to the beginning of each Fiscal Year, prepare and adopt a budget of estimated Revenues and Operating Expenses for the ensuing Fiscal Year, and undertake to operate the System within such budget to the best of its ability and make copies of such budgets and amendments thereto available to any Owner upon request; (G) to the extent allowed by law, discontinue the service to any premises the owner or occupant of which shall be delinquent for a period beyond that allowed by City policy and not resume service until all delinquent charges, with interest and penalties, shall have been paid; (H) pay and discharge all taxes, assessments or other governmental charges, if any, lawfully imposed upon the System or the Revenues when due, and all lawful claims for labor and materials and supplies which, if unpaid, might become a lien or charge on the System or the Revenues, or which might impair the security of the Bonds and, subject to the provisions of the Master Bond Resolution, will duly observe and conform to all valid requirements of any governmental authority relative to the System; (I) deposit the net proceeds realized by the City from any eminent domain proceeding concerning the System in the Revenue Fund; (J) not, to the extent allowed by law, grant a franchise or a permit for the operation of any competing System within the existing service area of the City's respective utility system, provided however, that this covenant shall not prohibit the City from entering into "privatization" contracts, agreements or other similar arrangements with private parties; (K) not issue bonds or other obligations superior in lien to the Bonds or on a

parity with the Bonds except in accordance with the Master Bond Resolution; (L) not violate the terms of any Agreement and give all notices and perform all acts and abide by all promises contained in such Agreement or Agreements.

**Equality of Lien; Prohibition of Future Lien.** The Bonds shall each enjoy complete parity of lien on the Net Revenues. Parity Bonds may be issued on a parity with the Bonds only if all of the following conditions are met: (1) The Net Revenues for the completed Fiscal Year immediately preceding the issuance of the Parity Bonds must have been at least equal to one hundred twenty percent (120%) of Maximum Annual Debt Service on all outstanding Bonds immediately after issuance of such Parity Bonds and said Net Revenues must also have been sufficient to provide an amount of Net Revenues for the then current Fiscal Year which, net of the aggregate amounts required to be deposited to the Bond Fund during such Fiscal Year, will be sufficient to provide at least one hundred percent (100%) of the City's Policy Costs due and owing in such Fiscal Year as shown by a certificate signed by the Chief Financial Officer. For the purposes of the computation required by this subsection, additional amounts may be added to the Net Revenues of the preceding Fiscal Year, as follows: (i) If all or part of the proceeds of the Parity Bonds are to be expended for the acquisition of existing water, sewer, gas, electrical, garbage or rubbish system properties, there may be added to the Net Revenues of such preceding Fiscal Year the net revenues derived from the operation of such existing water, sewer, gas, electrical or solid waste (garbage and rubbish) System properties during the immediately preceding Fiscal Year as estimated by an engineer or engineering firm which shall have a wide and favorable reputation in respect to such matters, and (ii) if during such preceding Fiscal Year, the City shall have increased its System rates or charges, there may be added to the Net Revenues of such Fiscal Year the increased amount of net revenues which would have been received from the operation of the System during such Fiscal Year had such increase been in effect throughout such Fiscal Year, such increased amount of Net Revenues to be estimated by an engineer or engineering firm which shall have a wide and favorable repute in respect to such matters; (2) the payments required to be made into the various funds provided in Section 10 of the Master Bond Resolution must be current; (3) the Parity Bonds proceeds must be used solely for System extensions, renewals, improvements, or replacements or to refund any Bonds or general obligation bonds issued for System purposes; and (4) if on the date of issuance of any Parity Bond the Reserve Fund is required to be maintained, the Post-2002 Reserve Fund Value shall be increased in order that the Post-2002 Reserve Fund Value equal or exceed the Post-2002 Reserve Requirement immediately after issuance of such Parity Bonds, at the City Council's option, by: (i) the deposit of Parity Bond proceeds or available moneys of the City to the Post-2002 Reserve Fund or the immediate delivery of a Post-2002 Reserve Fund Guaranty to the Paying Agent, or any combination thereof.

All or any part of the Bonds may be refunded and the refunding bonds so issued shall enjoy complete equality of lien with the Bonds so refunded, if any there be, and the refunding bonds shall continue to enjoy whatever priority of lien enjoyed by the Bonds being refunded.

**Resolution a Contract.** The provisions of the Master Bond Resolution are deemed incorporated into the Bonds themselves and shall constitute a contract between the City, any Reserve Fund Guarantor and the Owner or Owners.

**Modification of Resolution.**

A. Without the consent of or notice to any Owner, the Master Bond Resolution may be modified for one or more of the following purposes: (1) To cure any ambiguity or informal defect or inconsistency; (2) To grant to the Owners any additional authority that may lawfully be granted; (3) To secure additional Revenues or provide additional security or reserves for the Bonds; (4) To comply with the requirements of any federal securities laws or the Trust Indenture Act of 1939; (5) To permit, preserve or continue (upon a change in the Internal Revenue Code (the "**Code**") requiring a Supplement to continue such exclusion) the exclusion of the Bonds' interest income from gross income as defined by the Code or the exemption from State income taxes and to preserve the power of the City to continue to issue bonds or other obligations (specifically not limited to the Bonds authorized under the Master Bond Resolution) the interest income on which is likewise excluded from gross income; (8) To provide any remedies and assurances needed to induce Reserve Fund Guarantors to issue Reserve Fund Guaranties or Bond Insurers to issue Municipal Bond Insurance Policies.

B. Except as provided in subsection A above, the Owners of fifty-one percent (51%) in aggregate principal amount (treating the Accreted Value of a Capital Appreciate Bond as its principal amount) of the Bonds then Outstanding shall have the right to consent to and approve modifications of any terms or provisions except: (1) Changes in the maturity of any Outstanding Bond. (2) Changes in the interest rate on any Outstanding Bond. (3) Reduction of the principal or redemption premium payable on any Bond. (4) Modification of the principal, interest or redemption premium payment terms on any Bond or imposes any adverse conditions on such payments. (5) Modifications which adversely affect the rights of the Owners of less than all Bonds then Outstanding.

C. No amendment proposed shall become effective until approved by each Reserve Fund Guarantor and each Bond Insurer.

**Rights of Reserve Fund Guarantors; Rights of Bond Insurers.**

A. If any Bond's principal or interest shall be paid by a Reserve Fund Guarantor, (i) the pledge of the Net Revenues and all of the City's obligations shall continue to exist and such Reserve Fund Guarantor shall be fully subrogated to all of such Owner's rights.

B. The City may treat the consent of any Bond Insurer as the consent of the Owners of any Bonds then insured by such Insurer, if the credit of said Insurer is then in one of the two highest grades of municipal securities by one of the two most widely recognized rating agencies then rating municipal bond credits.

**Method of Valuation; Frequency.** In computing the amount in any fund or account, Permitted Investments shall be valued at the market value exclusive of accrued interest. A valuation shall occur annually on the first day of each Bond Year and immediately upon withdrawal from the Reserve Fund. If the Reserve Fund Value shall ever be less than the Reserve Requirement, each Reserve Fund Guarantor shall be notified and such deficiency remedied in twelve (12) substantially equal monthly payments.

**Reporting Requirements.**

A. The City will file or cause to be filed with each Reserve Fund Guarantor and issuer of a Municipal Bond Insurance Policy any official statement issued by, or on behalf of, the City in connection with the incurrence of any Parity Bonds issued by the City.

B. The City promises and agrees promptly to provide or cause to be provided to any issuer of a Municipal Bond Insurance Policy and any Reserve Fund Guarantor such financial, statistical and other factual information regarding the City as any such issue or Guarantor shall from time to time reasonably request.

C. The City agrees, so long as a Municipal Bond Insurance Policy is in effect, to provide not more than ten (10) days after the end of each Fiscal Year, a certificate of its Chief Financial Officer to the effect that the City is in compliance with the terms and conditions of the Master Bond Resolution, or, specifying the nature of any noncompliance and the remedial action taken or proposed to be taken to cure such noncompliance.

D. The City agrees, so long as a Municipal Bond Insurance Policy or Reserve Fund Guaranty is in effect, to provide promptly to each Municipal Bond Insurance Policy issue or Reserve Fund Guarantor (i) its audited (or, if not audited, then unaudited) financial statements and quarterly financial statements, (ii) its annual report, (iii) all reports, certificates and financial information required to be filed with the Bond Registrar and Paying Agent pursuant to the Master Bond Resolution or available at the request of Owners and (iv) all reports or certificates prepared by the consulting engineer pursuant to the Master Bond Resolution.

**Notices.** The City and the Bond Registrar and Paying Agent shall notify any issuer of a Policy of Municipal Bond Insurance or Reserve Fund Guarantor within five (5) days after such entity has received notice or has knowledge of (i) any default by the City in performance of its obligations under the Master Bond Resolution; (ii) the withdrawal of amounts on deposit in the Reserve Fund other than amounts comprising investment earnings thereon; or (iii) the failure to make any required deposit to the Bond Fund to pay principal or interest when due. Any notice that is requested to be given to Owners or the Bond Registrar and Paying Agent pursuant to the Master Bond Resolution or any supplemental resolution shall also be provided to any issuer of a Municipal Bond Insurance Policy or Reserve Fund Guarantor.

**Defeasance.** Payment of all or any part of the Bonds may be provided for by the irrevocable deposit with a trustee of moneys or Governmental Obligations, or both. If the moneys and the maturing principal and interest income on such Government Obligations, if any, shall be sufficient, as evidenced by as certificate of experts in the field of calculating the sufficiency thereof, then to the extent allowed by law, Bonds the payment of which has been provided for in accordance with this section shall no longer be deemed Outstanding or secured under the Master Bond Resolution.

**Continuing Disclosure.** The First Supplemental Resolution dated September 18, 1995 and all later Supplemental Resolutions contained the following Continuing Disclosure covenant: The Chief Financial Officer or Controller of the City are authorized to execute and deliver a written undertaking or agreement containing such terms and provisions as are necessary to assist with compliance with the continuing disclosure provisions of Section 240.15c2-12 General Rules and Regulations, Securities Exchange Act of 1934.

**Provisions relating to the Reserve Fund.** Any provision to the contrary notwithstanding, if Net Revenues during any Fiscal Year ending after June 30, 2003 do not equal or exceed one hundred seventy-five percent (175%) of the principal and interest requirements on all Outstanding Bonds for the corresponding Bond Year, then the City will deposit, or cause to be deposited, within 180 days following the end of such Fiscal Year, to the Post-2002 Reserve Fund, moneys, investments, Reserve Fund Guaranties or any combination thereof, equal to the Post-2002 Reserve Requirement. If, thereafter, Net Revenues for two consecutive Fiscal Years equal or exceed one hundred seventy-five percent (175%) of the principal and interest requirements on all Outstanding Bonds for the respective corresponding Bond Years, any moneys, investments or Post-2002 Reserve Fund Guaranties in the Post- 2002 Reserve Fund may be released (except as otherwise limited by Reserve Fund Guaranties or related Reserve Fund Guaranty Agreements) and used for any lawful purpose, and the City's obligation to maintain the Post-2002 Reserve Fund at the Reserve Requirement will terminate, subject to a refunding of the Reserve Fund for Post-2002 Bonds, as described in this section.



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**OBLIGATIONS DOCUMENTS SUMMARIES**

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## OBLIGATIONS DOCUMENTS SUMMARIES

The following summaries are supplemental to and should be read together with “SECURITY FOR AND SOURCES OF PAYMENT OF THE OBLIGATIONS” herein. These summaries are a brief description of certain provisions of the Trust Agreement and the Purchase Agreement and certain definitions therein not defined elsewhere in this Official Statement, should not be considered a full statement thereof and are qualified in their entirety by reference to the entire Trust Agreement and Purchase Agreement, copies of which are available as set forth in this Official Statement under the heading “ADDITIONAL INFORMATION.”

### Definitions

For the purposes hereof and in addition to those defined prior to the Appendices hereof, the following words and phrases will have the following meanings:

“Additional Obligation Documents” means any contract (including a resolution of the City Council) or agreement of the City constituting or authorizing Additional Obligations.

“Additional Obligations” means obligations (including loans and bonds) or applicable interests therein that are incurred (i) by, or the payment of which is assumed by, the City subsequent to, and are to rank on a parity with, the payments of the Purchase Price and share pro rata in payments to be made by the City from the Pledged Revenues, without priority one over the other or over the Purchase Agreement, and (ii) for the purpose of acquiring, constructing or improving the System or to refund any Obligations, Parity Obligations, Additional Obligations or Bonds.

“Administrative Costs” means reasonable charges, fees, costs, losses, liabilities and expenses that the Insurer may pay or incur, including, but not limited to, fees and expenses of the Insurer’s agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Trust Agreement or the Purchase Agreement. Administrative Costs shall include a reasonable allocation of compensation and overhead attributable to the time of employees of the Insurer spent in connection with the actions described in the preceding sentence.

“Assumed Interest Rate” means an interest rate for a series of Variable Interest Rate Obligations at the computation date computed to be the lesser of (i) the maximum rate that the Variable Interest Rate Obligations of a series may bear under the terms of their incurrence or (ii) the rate of interest established for long-term bonds by the 30-year revenue bond index published by The Bond Buyer of New York, New York, on the date that is nearest to 30 days prior to the computation date (or in the absence of such published index, some other index selected in good faith by the Deputy City Manager and Chief Financial Officer after consultation with one or more reputable, experienced investment bankers as being equivalent thereto).

“Bond Year” means a 12-month period beginning July 2 of the calendar year and ending on the next succeeding July 1.

“Bonds” has the meaning ascribed in the Master Bond Resolution.

“Business Day” means any day other than (a) a Saturday or Sunday, (b) a day on which banks located in the City of Phoenix, Arizona, and in the city or cities in which the corporate trust office of the Trustee and the Paying Agents are required or authorized by law or executive order to remain closed, and (c) a day on which the City is required or authorized by law or executive order to remain closed.

“Claim” means any claim or enforcement proceeding in connection with an Insolvency Proceeding.

“Code” means the Internal Revenue Code of 1986, as amended, and any successor provisions thereto.

“Consultant” means, in the sole discretion of the City, a firm of utility consultants experienced in the financing and operation of sewer systems and having a recognized reputation for such work, or City staff with similar experience.

“City Representative” means the Deputy City Manager and Chief Financial Officer or any other person at any time designated, by written certificate furnished to the Trustee containing the specimen signature of such person and signed by the City Manager or his or her designee, to act on behalf of the City with respect to the Trust Agreement and the Obligations. Such certificate may designate one or more alternates.

“City Series 2023 Obligations Fund” means the fund of that name created pursuant to Section 3.3(a) of the Purchase Agreement.

“Credit Facility” means a bank, financial institution, insurance company or indemnity company that is engaged by or on behalf of the City to perform one or more of the following tasks: (a) enhance the credit of the City securing the Obligations or Additional Obligations by assuring that principal of and interest on the Obligations or such Additional Obligations (or any interests therein) will be paid promptly when due (including the issuance of an insurance policy, letter of credit, surety bond or other form of security for a reserve) or (b) provide liquidity for Additional Obligations (or any interests therein) by undertaking to cause such Additional Obligations to be bought from the holders thereof when submitted pursuant to an arrangement prescribed by the Additional Obligation Documents.

“Debt Service Reserve Account” means the account of the Obligation Fund of that name created pursuant to Section 5.1 of the Trust Agreement.

“Defeasance Obligations” means any of the following: (1) cash, (2) non-callable direct obligations of the United States of America (“Treasuries”), (3) evidences of ownership of proportionate interest in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated “AAA” and “Aa” by S&P and Moody’s, respectively, or (5) securities eligible for “AAA” defeasance under then existing criteria of S&P or any combination thereof.

“Depository Trustee” means any financial institution meeting the requirements as a successor Trustee under Section 8.6 of the Trust Agreement that may be designated by the City.

“Deputy City Manager and Chief Financial Officer” means the chief financial officer of the City or other authorized representative of City staff.

“Fiscal Year” means the 12-month period used by the City for its general accounting purposes as the same may be changed from time to time, said fiscal year currently extending from July 1 to June 30.

“Fitch” means Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency for the type of credit in question, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City by written notice to the Trustee.

“Holder” means the registered owner of any Obligation.

“Improvements Fund” means the fund of that name created pursuant to Section 2.2 of the Purchase Agreement.

“Insolvency Proceeding” means any proceeding by or against the city under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law.

“Insurer” means \_\_\_\_\_ or any successor thereto.

“Insurer Default” means (A) the Insurer has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) the Insurer shall (1) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency or similar law, (2) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (3) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (4) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (5) make a general assignment for the benefit of creditors, or (6) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of the Insurer (including without limitation under the New York Insurance Law).

“Insurer Policy Payments” means a sum equal to the total of all amounts paid by the Insurer under the Policy.

“Insurer Reimbursement Amounts” means, collectively, the Insurer Policy Payments and interest on such Insurer Policy Payments from the date paid by the Insurer until the payment thereof in full by the City, payable to the Insurer at the Late Payment Rate per annum compounded semiannually.

“Interest Account” means the account of the Obligation Fund of that name created pursuant to Section 5.1 of the Trust Agreement.

“Interest Requirement” means (i) with respect to the Purchase Agreement, as of any date of calculation, the interest amount on the Purchase Agreement due during the then-current Bond Year, (ii) with respect to Parity Obligations, as of any date of calculation, the amount required to be paid by the City during the then-current Bond Year with respect to interest on such Parity Obligations, and (iii) with respect to Additional Obligations, as of any date of calculation, the amount required to be paid by the City during the then-current Bond Year with respect to interest on such Additional Obligations. In the case of Variable Interest Rate Obligations Outstanding or proposed to be incurred, the Interest Requirement shall be computed with the Assumed Interest Rate.

“Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in New York, New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 5% and (ii) the then applicable highest rate of interest on the Obligations and (b) the maximum rate permissible under the applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A. ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as the Insurer, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to the Insurer shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

“Master Bond Resolution” means Resolution No. 6362 passed and adopted by the City Council of the City on July 29, 1991, as thereafter supplemented and amended.

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency for the type of credit in question, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City by written notice to the Trustee.

“Obligation Fund” means the fund of that name created pursuant to Section 5.1 of the Trust Agreement.

“Obligation Payment Date” means each January 1 and July 1, commencing, July 1, 2024\*, so long as any Obligations are Outstanding.

“Opinion of Counsel” means a written opinion of an attorney or firm of attorneys acceptable to the Trustee and who or which (except as otherwise expressly provided in the Trust Agreement or in the Purchase Agreement) may be counsel for the City or the Trustee, provided that such attorney or firm of attorneys may not be an employee of the Trustee.

“Outstanding” means when used with reference to the Obligations, as of any date of determination, all Obligations theretofore executed and delivered except:

- (i) Obligations previously cancelled by the Trustee or delivered to the Trustee for cancellation;
- (ii) Obligations that are deemed paid and no longer Outstanding as provided in the Trust Agreement, including as a result of irrevocable instructions being provided by the City for the redemption thereof;
- (iii) Obligations in lieu of which other Obligations have been executed and delivered pursuant to the provisions of the Trust Agreement relating to Obligations destroyed, stolen or lost, unless evidence satisfactory to the Trustee has been received that any such Obligation is held by a bona fide purchaser; and
- (iv) For purposes of any consent or other action to be taken under the Trust Agreement or under the Purchase Agreement by the Holders of a specified percentage in principal amount of Obligations, Obligations held by or for the account of the City, or any Person controlling, controlled by, or under common control with the City.

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\* Subject to change.

“Parity Lien Test Debt Service” means the highest aggregate Principal Requirement and Interest Requirement of all Obligations, Parity Obligations and Additional Obligations then Outstanding to fall due and payable in the current or any future Bond Year.

“Parity Obligation Documents” means any contract (including a resolution of the City Council) or agreement of the City constituting or authorizing Parity Obligations.

“Parity Obligations” means the outstanding utility systems revenue obligations and utility systems revenue refunding obligations issued or incurred by the City and having a parity of lien on the Pledged Revenues with the Obligations being the \$14,015,000 original aggregate principal amount of Utility Systems Revenue Obligations, Series 2021, \$54,705,000 original aggregate principal amount of Utility Systems Revenue Obligations, Series 2022A, \$16,075,000 original aggregate principal amount of Utility Systems Revenue Obligations, Taxable Series 2022B, and \$57,655,000 original aggregate principal amount of Utility Systems Revenue Refunding Obligations, Series 2022C.

“Paying Agent” means the banks or trust companies and their successors from time to time designated by the City as the paying agencies or places of payment for the Obligations. The Trustee is designated as the initial Paying Agent for the Obligations.

“Permitted Investments” means, to the extent the use of which is not otherwise prohibited by applicable law:

1. A. Cash;
- B. U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – (SLGs));
- C. Direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury itself;
- D. Resolution Funding Corp. (“REFCORP”) but only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable;
- E. Pre-refunded municipal bonds rated “Aaa” by Moody’s and “AAA” by S&P but if, however, the issue is only rated by S&P (i.e., there is no Moody’s rating) then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA rated pre-refunded municipals to satisfy this condition and
- F. Obligations issued by the following agencies which are backed by the full faith and credit of the U.S.:
  - (i) U.S. Export-Import Bank (Eximbank)
    - Direct obligations or fully guaranteed certificates of beneficial ownership,
  - (ii) Farmers Home Administration (FmHA),
  - (iii) Federal Financing Bank,
  - (iv) General Services Administration
    - Participation Certificates,
  - (v) U.S. Maritime Administration
    - Guaranteed Title XI financing and
  - (vi) U.S. Department of Housing and Urban Development (HUD)
    - Project Notes
    - Local Authority Bonds
    - New Communities Debentures – U.S. government guaranteed debentures

– U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds;

2. Federal Housing Administration debentures;
3. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):
  - A. Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”)
    - Participation Certificates (excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date)
    - Senior debt obligations
  - B. Farm Credit Banks (formerly Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)
    - Consolidated system-wide bonds and notes
  - C. Federal Home Loan Banks (FHL Banks)
    - Consolidated debt obligations
  - D. Federal National Mortgage Association (FNMA or “Fannie Mae”)
    - Senior debt obligations
    - Mortgage-backed securities (excluded are stripped mortgage securities that are purchased at prices exceeding the portion of their unpaid principal amounts)
  - E. Financing Corporation (FICO)
    - Debt obligations
  - F. Resolution Funding Corp. (REFCORP)
    - Debt obligations
4. Unsecured certificates of deposit, time deposits, and bankers’ acceptances (having maturities of not more than 30 days) of any bank the short-term obligations of which are rated “A-1” or better by S&P or the highest rating category of Moody’s or are fully insured by the Federal Deposit Insurance Corporation (FDIC).
5. Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC).
6. Commercial paper (having original maturities of not more than 270 days) rated “A-1+” by S&P and “Prime-1” by Moody’s.
7. Money market mutual funds rated “AAM” or “AAM-G” or higher by S&P or having a rating in the highest investment category granted thereby from Moody’s.
8. “State Obligations”, which means:
  - A. Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated “A3” by Moody’s and “A” by S&P, or higher, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.
  - B. Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated “A-1+” by S&P and “MIG-1” by Moody’s.



- C. Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated “AA” or better by S&P and “Aa” or better by Moody’s.

9. Pre-refunded municipal obligations rated “AAA” by S&P and “Aaa” by Moody’s meeting the following requirements:

- A. the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;
- B. the municipal obligations are secured by cash or United States Treasury Obligations that may be applied only to payment of the principal of, interest and premium on such municipal obligations;
- C. the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations (“Verification”);
- D. the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;
- E. no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and
- F. the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

10. Repurchase or reverse repurchase agreements: With (1) any domestic bank, or domestic branch of a foreign bank, the long term debt of which is rated at least “A” by S&P and Moody’s; or (2) any broker-dealer with “retail customers” or a related affiliate thereof which broker-dealer has, or the parent company (which guarantees the provider) of which has, long-term debt rated at least “A” by S&P and Moody’s, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation; or (3) any other entity rated “A” or better by S&P and Moody’s, provided that:

- A. The market value of the collateral is maintained at levels and upon such conditions as would be acceptable to S&P and Moody’s to maintain an “A” rating in an “A” rated structured financing (with a market value approach);
- B. The Trustee or a third party acting solely as agent therefor (the “Holder of the Collateral”) has possession of the collateral or the collateral has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor’s books);
- C. The repurchase or reverse repurchase agreement shall state and an opinion of counsel shall be rendered at the time such collateral is delivered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);
- D. All other requirements of S&P in respect of repurchase or reverse repurchase agreements shall be met;
- E. The repurchase or reverse repurchase agreement shall provide that if during its term the provider’s rating by either Moody’s or S&P is withdrawn or suspended or falls below “A-” by S&P or “A3” by Moody’s, as appropriate, the provider must, at the direction of the City or the Trustee, within ten days of receipt of such direction, repurchase all

collateral and terminate the agreement, with no penalty or premium to the City or Trustee.

Notwithstanding the above, if a repurchase agreement has a term of 270 days or less (with no evergreen provision), collateral levels need not be as specified in (A) above, so long as such collateral levels are 103 percent or better and the provider is rated at least “A” by S&P and Moody’s, respectively.

11. Investment agreements with a domestic or foreign bank or corporation (other than a life or property casualty insurance company) the long-term debt of which, or, in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor is rated at least “AA” by S&P and “Aa2” by Moody’s; provided that, by the terms of the investment agreement:

- A. interest payments are to be made to the Trustee at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the construction fund, construction draws) on the Obligations;
- B. the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven days’ prior notice; the Trustee thereby agrees to give or cause to be given notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;
- C. the investment agreement shall state that it is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof or, if the provider is a bank, the agreement or the opinion of counsel shall state that the obligation of the provider to make payments thereunder ranks pari passu with the obligations of the provider to its other depositors and its other unsecured and unsubordinated creditors;
- D. the Trustee receives the opinion of domestic counsel (which opinion shall be addressed to the Trustee) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable);
- E. the investment agreement shall provide that if during its term:
  - (i) the provider’s rating by either S&P or Moody’s falls below “AA-” or “Aa3”, respectively, the provider shall, at its option, within ten days of receipt of publication of such downgrade, either (a) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider’s books) to the Trustee or a third party acting solely as agent therefor (the “Holder of the Collateral”) collateral free and clear of any third-party liens or claims the market value of which collateral is maintained at levels and upon such conditions as would be acceptable to S&P and Moody’s to maintain an “A” rating in an “A” rated structured financing (with a market value approach); or (b) repay the principal of and accrued but unpaid interest on the investment; and
  - (ii) the provider’s rating by either S&P or Moody’s is withdrawn or suspended or falls below “A-” or “A3”, respectively, the provider must, at the direction of the Trustee, within ten days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Trustee, and
- F. the investment agreement shall state and an opinion of counsel shall be rendered, in the event collateral is required to be pledged by the provider under the terms of the investment agreement, at the time such collateral is delivered, that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

- G. the investment agreement must provide that if during its term:
- (i) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Trustee, be accelerated and amounts invested and accrued but unpaid with interest thereon shall be repaid to the Trustee, and
  - (ii) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. ("event of insolvency"), the provider's obligations shall automatically be accelerated and amounts invested and accrued but unpaid with interest thereon shall be repaid to the Trustee, as appropriate.

12. Interests in the Local Government Investment Pool established pursuant to Arizona Revised Statutes Section 35-326.

13. Any other investment that is permitted by the City's written investment policy.

"Person" includes an individual, an unincorporated association, a corporation, a partnership, a government agency or a political subdivision.

"Pledged Revenues" means Revenues remaining after deducting Operating Expenses. (However, see "SECURITY FOR AND SOURCES OF PAYMENT OF THE OBLIGATIONS – Source of Purchase Payments; Obligations Junior to Bonds" regarding the modification to Pledged Revenues applicable so long as the Bonds are Outstanding under the Master Bond Resolution.) For the purposes of the computation required by Sections 4.4, 5.3(b) and 5.3(c) of the Purchase Agreement, additional amounts will be added to, or subtracted from, the Pledged Revenues of the preceding Fiscal Year, as follows: (i) if all or part of the proceeds of the Additional Obligations described in Section 4.4 of the Purchase Agreement are to be expended for the acquisition of utility properties, then the Revenues that would have been derived from the operation of such acquired utility properties during the entire immediately preceding Fiscal Year, as estimated by a Consultant, will be added; (ii) if during such preceding Fiscal Year the City has acquired or sold existing utility properties, then the revenues that would have been derived from the operation of such utility properties during such Fiscal Year had such utility properties been acquired and operating or sold and not operating throughout such Fiscal Year, as estimated by a Consultant, will be added or subtracted, respectively; and (iii) if during such preceding Fiscal Year the City has increased rates, fees and charges with respect to the System, then the increased amount that would have been received during such Fiscal Year had such increase been in effect throughout such Fiscal Year, as estimated by a Consultant, will be added.

"Policy" means the municipal bond insurance policy issued by the Insurer that guarantees the scheduled payment of principal of and interest on the Obligations when due.

"Principal Account" means the account of the Obligation Fund of that name created pursuant to Section 5.1 of the Trust Agreement.

"Principal Installment" means, for any particular date, the aggregate of the principal amount of Obligations that are due on such date.

"Principal Requirement" means (i) with respect to the Purchase Agreement, as of any date of calculation, the principal amount of the Obligations maturing or subject to mandatory redemption pursuant to the Trust Agreement during the then-current Bond Year, and (ii) with respect to Parity Obligations and Additional Obligations, as of any date of calculation, the principal amount required to be paid by the City during the then-current Bond Year with respect to such Parity Obligations and Additional Obligations, as applicable. In computing the Principal Requirement for such Parity Obligations or Additional Obligations, an amount of such Parity Obligations or Additional Obligations, as applicable, required to be redeemed pursuant to mandatory redemption in each year shall be deemed to fall due in that year and (except in case of default in observing a mandatory redemption requirement) shall be deducted from the amount of the Parity Obligations or Additional Obligations, as applicable, maturing on the scheduled maturity date. In the case of Parity Obligations or Additional Obligations supported by a Credit Facility, the Principal Requirement for such Parity Obligations or Additional Obligations, as applicable, shall be determined in accordance with the principal retirement schedule specified in the Parity Obligation Documents or Additional Obligation Documents authorizing the incurrence of such Parity Obligations or Additional Obligations, as applicable, rather than any amortization schedule set forth in such Credit Facility unless payments under such Parity Obligations or Additional Obligations, as applicable, shall be in default

at the time of the determination, in which case the Principal Requirements for such Parity Obligations or Additional Obligations shall be determined in accordance with the amortization schedule set forth in such Credit Facility.

“Purchase Event of Default” means one of the events defined as such in Section 7.1 of the Purchase Agreement.

“Purchase Price” means the sum of the payments paid pursuant to Sections 5.4(i) and (ii) of the Trust Agreement from amounts to be paid by or on behalf of the City as the purchase price for the Series 2023 Projects.

“Qualified Reserve Fund Instrument” means a letter or line of credit, insurance policy or surety bond that meets the requirements set forth below:

(i) A surety bond or insurance policy issued to the Trustee by a company licensed to issue an insurance policy guaranteeing the timely payment of debt service on the Obligations may be deposited in the Debt Service Reserve Account to meet the amount that should have then been on deposit in the Debt Service Reserve Account pursuant to the requirements of the Purchase Agreement if the claims paying ability of the issuer thereof shall be rated at least “AA-” or “Aa3” by S&P or Moody’s, respectively, or a lower rating acceptable to the City, provided that any issuer rated below “AA-” or “Aa3” by S&P or Moody’s, respectively, will not adversely affect the then-current rating pertaining to the Obligations, if then rated by S&P or Moody’s.

(ii) An unconditional irrevocable letter of credit issued to the Trustee, as agent of the Holders of the Obligations, by a bank may be deposited in the Debt Service Reserve Account to meet the amount that should have then been on deposit in the Debt Service Reserve Account pursuant to the requirements of the Purchase Agreement if the issuer thereof is rated at least “AA-” by S&P, or a lower rating acceptable to the City, provided that any issuer rated below “AA-” by S&P will not adversely affect the then-current rating pertaining to the Obligations, if then rated by S&P or Moody’s. The letter of credit shall be payable in one or more draws upon presentation by the beneficiary of a sight draft accompanied by its certificate that it then holds insufficient funds to make a required payment of principal or interest on the Obligations. The draws shall be payable within two days of presentation of the sight draft. The letter of credit shall be for a term of not less than three years. The issuer of the letter of credit shall be required to notify the City and the Trustee, not later than 24 months prior to the stated expiration date of the letter of credit, as to whether such expiration date shall be extended, and if so, shall indicate the new expiration date.

The letter of credit shall permit a draw in full not less than 14 days prior to the expiration or termination of such letter of credit if the letter of credit has not been replaced or renewed. The Trustee is authorized and directed to draw upon the letter of credit prior to its expiration or termination unless an acceptable replacement is in place or the Debt Service Reserve Account is fully funded in its required amount.

If the expiration date of the letter of credit shall not be extended, the City may deposit in the Debt Service Reserve Account an amount sufficient to cause cash or Permitted Investments on deposit in the Debt Service Reserve Account to equal the amount that should have then been on deposit in the Debt Service Reserve Account pursuant to the requirements of the Purchase Agreement, such deposit to be paid in equal installments on at least a semiannual basis over the ensuing three years, unless the Qualified Reserve Fund Instrument is replaced by a Qualified Reserve Fund Instrument meeting the requirements in either (i) or (ii) above.

The deposit of any Qualified Reserve Fund Instrument pursuant to this paragraph (ii) shall be subject to the Trustee’s receipt of an opinion of counsel of an attorney or firm of attorneys of nationally recognized standing in the related field as to the due authorization, execution, delivery and enforceability of such instrument in accordance with its terms, subject to applicable laws affecting creditors’ rights generally, and, in the event the issuer of such credit instrument is not a domestic entity, an opinion of foreign counsel. In addition, the use of an irrevocable letter of credit shall be subject to the Trustee’s receipt of an opinion of counsel of such attorney or firm of attorneys to the effect that payments under such letter of credit would not constitute avoidable preferences under Section 547 of the U.S. Bankruptcy Code or similar state laws with avoidable preference provisions in the event of the filing of a petition for relief under the U.S. Bankruptcy Code or similar state laws by or against the issuer of the Obligations (or any other account party under the letter of credit).

(iii) The obligation to reimburse the issuer of a Qualified Reserve Fund Instrument for any fees, expenses, claims or draws upon such Qualified Reserve Fund Instrument shall be subordinate to the payment of debt service on the Obligations. The right of the issuer of a Qualified Reserve Fund Instrument to payment or reimbursement of its fees and expenses shall be subordinated to cash replenishment of the Debt Service Reserve Account, and subject to the second succeeding sentence, its right to reimbursement for claims or draws shall be

on a parity with the cash replenishment of the Debt Service Reserve Account. The Qualified Reserve Fund Instrument shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the issuer of the Qualified Reserve Fund Instrument to reimbursement will be further subordinated to cash replenishment of the Debt Service Reserve Account to an amount equal to the difference between the full original amount available under the Qualified Reserve Fund Instrument and the amount then available for further draws or claims. If (A) the issuer of a Qualified Reserve Fund Instrument becomes insolvent or (B) the issuer of a Qualified Reserve Fund Instrument defaults in its payment obligations thereunder or (C) the claims-paying ability of the issuer of the insurance policy or surety bond falls below a S&P "AA-" or a Moody's "Aa3" (or if the City initially selected a lower rated issuer, the S&P or Moody's rating on such issuer declines from its initial level and such decline adversely affects the then-current rating pertaining to the Obligations, if then rated by S&P or Moody's) or (D) the rating of the issuer of the letter of credit falls below a S&P "AA-" (or if the City initially selected a lower rated issuer, the S&P rating on such issuer declines from its initial level and such decline adversely affects the then-current rating pertaining to the Obligations, if then rated by S&P or Moody's) the obligation to reimburse the issuer of the Qualified Reserve Fund Instrument shall be subordinate to the cash replenishment of the Debt Service Reserve Account.

(iv) If (A) the revolving reinstatement feature described in the preceding paragraph is suspended or terminated or (B) the rating of the claims paying ability of the issuer of the surety bond or insurance policy falls below a S&P "AA-" or a Moody's "Aa3" (or if the City initially selected a lower rated issuer, the S&P or Moody's rating on such issuer declines from its initial level and such decline adversely affects the then-current rating pertaining to the Obligations, if then rated by S&P or Moody's) or (C) the rating of the issuer of the letter of credit falls below a S&P "AA-" (or if the City initially selected a lower rated issuer, the S&P rating on such issuer declines from its initial level and such decline adversely affects the then-current rating pertaining to the Obligations, if then rated by S&P or Moody's), the City shall either (1) deposit into the Debt Service Reserve Account an amount sufficient to cause the cash or Permitted Investments on deposit in the Debt Service Reserve Account to equal the amount that should have then been on deposit in the Debt Service Reserve Account pursuant to the requirements of the Purchase Agreement, such amount to be paid over the ensuing five years in equal installments deposited at least semiannually or (2) replace such instrument with a surety bond, insurance policy or letter of credit meeting the requirements in any of (i)-(iii) above within six months of such occurrence. In the event (a) the rating of the claims-paying ability of the issuer of the surety bond or insurance policy is no longer investment grade or (b) the rating of the issuer of the letter of credit is no longer investment grade or (c) the issuer of the Qualified Reserve Fund Instrument defaults in its payment obligations or (d) the issuer of the Qualified Reserve Fund Instrument becomes insolvent, the City shall either (i) deposit into the Debt Service Reserve Account an amount sufficient to cause the cash or Permitted Investments on deposit in the Debt Service Reserve Account to equal the amount that should have then been on deposit in the Debt Service Reserve Account pursuant to the requirements of the Purchase Agreement, such amount to be paid over the ensuing year in equal monthly installments or (ii) replace such instrument with a surety bond, insurance policy or letter of credit meeting the requirements above, as applicable, within six months of such occurrence.

(v) Where applicable, the amount available for draws or claims under the Qualified Reserve Fund Instrument may be reduced by the amount of cash or Permitted Investments deposited in the Debt Service Reserve Account pursuant to clause (d)(i) of the preceding subparagraph (iv).

(vi) Any amounts owed by the City to the issuer of the Qualified Reserve Fund Instrument as a result of a draw thereon or a claim thereunder, as appropriate, shall be included in any calculation of debt service requirements required to be made pursuant to the Purchase Agreement for any purpose, e.g., rate covenant or Additional Obligations test.

(vii) The Trustee shall ascertain the necessity for a claim or draw upon the Qualified Reserve Fund Instrument and provide notice to the issuer of the Qualified Reserve Fund Instrument in accordance with its terms not later than three days (or such longer period as may be necessary depending on the permitted time period for honoring a draw under the Qualified Reserve Fund Instrument) prior to each Obligation Payment Date.

(viii) Cash on deposit in the Debt Service Reserve Account shall be used (or investments purchased with such cash shall be liquidated and the proceeds applied as required) prior to any drawing on the Qualified Reserve Fund Instrument.

(ix) A Qualified Reserve Fund Instrument may not be provided to replace existing cash or Permitted Investments unless the City obtains, and provides to the Trustee, a Special Counsel's Opinion to the effect that such action will not cause the interest on any Obligations to become includible in gross income for purposes of federal income taxes.

“Rating Agency” means Moody’s or S&P, or either of them or their replacements as provided in the definition of each.

“Repair and Replacement Fund” means the fund of that name as described in Section 5.1(b) of the Purchase Agreement.

“Repair and Replacement Fund Funding Requirement” means an amount equal to two percent of all tangible assets of the System at the end of the preceding Fiscal Year, as shown in the most recent audited financial statements of the City.

“Reserve Requirement” means, if the Debt Service Reserve Account is required to be funded, an amount equal to the greatest amount to be paid in any subsequent Fiscal Year of the City with respect to the Obligations; provided, however, that such amount shall not exceed the least of (a) ten percent (10%) of the net proceeds of the Obligations at the time of original delivery, (b) the greatest amount to be paid in any subsequent Fiscal Year of the City with respect to the Obligations at the time of original delivery or (c) one hundred twenty-five percent (125%) of the average annual debt service at the time of original delivery. If the Debt Service Reserve Account is not required to be funded, the Reserve Requirement is \$0.00.

“S&P” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, its successors and assigns, and, if such limited liability company shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency for the type of credit in question, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City by written notice to the Trustee.

“Series 2023 Projects” means, in the aggregate, the improvements described on Exhibit A attached to the Purchase Agreement.

“Special Counsel” means an attorney or a firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by the City.

“Special Counsel’s Opinion” means an opinion signed by Special Counsel.

“State” means the State of Arizona.

“Trust Agreement Event of Default” means any one of those events set forth in Section 7.1 of the Trust Agreement.

“Variable Interest Rate Obligations” means any Additional Obligations that may, in the future, bear interest at rates that cannot be determined with specificity on their original incurrence.

**The Purchase Agreement**

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**Section 2.1. Agreement to Cause Execution and Delivery of Obligations; Application of Obligation Proceeds.** In order to provide funds for payment of the costs and expenses of the Series 2023 Projects and of execution and delivery of the Obligations, the Obligations shall be executed and delivered under the Trust Agreement.

**Section 2.2. Improvements Fund.**

(a) The City shall establish and maintain a separate fund known as the “Improvements Fund,” that shall be funded from proceeds of the Obligations transferred to the City by the Trustee pursuant to the Trust Agreement. Moneys in the Improvements Fund shall be disbursed by the City for the following purposes and for no other purposes:

(i) to the extent not paid by the Trustee from the Delivery Costs Fund established under the Trust Agreement, Delivery Costs;

(ii) payment for the acquisition, improvement and construction of the Series 2023 Projects, and all real and personal property deemed necessary by the City, in its sole discretion, in connection with the Series 2023 Projects and for the miscellaneous expenses incidental to any of the foregoing including the premium on each performance and payment bond;

(iii) reimbursement of capital expenditures relating to the Series 2023 Projects advanced prior to the execution and delivery of the Obligations; and

(iv) payment of the portion of the Purchase Price representing interest on the Obligations during the acquisition, construction and improvement of the Series 2023 Projects.

(b) Before any of the foregoing payments may be made, the City shall maintain a record with respect to each such payment to the effect that: (i) none of the items for which the payment is proposed to be made has formed the basis for any payment previously made from the Improvements Fund, (ii) each item for which payment is proposed to be made is or was deemed necessary by the City, in its sole discretion, in connection with the Series 2023 Projects and (iii) each item for which payment is proposed to be made is for a purpose permitted by the Purchase Agreement.

(c) In the case of any contract providing for the retention of a portion of the contract price, the City may pay from the Improvements Fund the amounts not subject to retention, in accordance with Sections 2.3 and 2.4 of the Purchase Agreement.

(d) The City shall notify the Trustee of the completion date of the Series 2023 Projects by delivery of a certificate signed by the City Representative stating that (i) the Series 2023 Projects have been completed and (ii) all disbursements from the Improvements Fund have been made, except for amounts retained by the City for payment of costs of the Series 2023 Projects not yet due and payable. Any moneys held in the Improvements Fund upon delivery of such certificate that are not needed to pay costs of the Series 2023 Projects shall be transferred by the City to the Trustee for deposit to the Interest Account or the Principal Account as indicated in such certificate.

\* \* \* \* \*

**Section 3.3. City Series 2023 Obligations Fund; Amounts Payable After Execution and Delivery of Obligations Including for Purchase Price.**

(a) Upon the issuance of the Obligations, the City shall establish and maintain a separate, internal fund known as the “City Series 2023 Obligations Fund,” which the City shall hold in trust for the Holders of the Obligations. On or before the 10th day of each month, the City shall transfer Pledged Revenues received pursuant to Section 4.1 of the Purchase Agreement into the City Series 2023 Obligations Fund as follows:

(i) Commencing \_\_\_\_\_, 20\_\_, one-\_\_ (1/\_\_) of the interest on the Obligations falling due on the July 1, 2024, Obligation Payment Date and, thereafter, one-sixth (1/6) of the interest on the Obligations falling due on the next succeeding Obligation Payment Date, which amounts shall be used to make the payments required by Section 3.3(b)(ii) below.

(ii) Commencing \_\_\_\_ 10, 20\_\_, one-\_\_\_\_ (1/\_\_) of the principal due on July 1, 2024\* and, thereafter, commencing July 10, 2024, one-twelfth (1/12) of the principal due or subject to mandatory redemption on the next succeeding July 1, which amounts shall be used to make the payments required by Section 3.3(b)(iii) below.

(b) After providing for certain amounts due to the federal government as rebate of excess earnings, the Pledged Revenues received pursuant to Section 4.1 of the Purchase Agreement (whether held by the City in the City Series 2023 Obligations Fund or otherwise) shall be paid for the following purposes and in the following order of priority:

(i) On the dates necessary therefor, fees and expenses of the Trustee in accordance with the provisions of Section 8.8 of the Trust Agreement to the Trustee.

(ii) Not later than one Business Day prior to the date on which due, the interest on the Obligations falling due on the next succeeding Obligation Payment Date for deposit to the Interest Account (representing a portion of the Purchase Price).

(iii) Not later than one Business Day prior to the date on which due, the principal of the Obligations due or subject to mandatory redemption on the next succeeding Obligation Payment Date for deposit to the Principal Account (representing a portion of the Purchase Price).

(iv) (1) If Pledged Revenues during any Fiscal Year of the City are less than 175 percent of the aggregate Principal Requirement and the Interest Requirement on all Obligations, Parity Obligations and Additional Obligations then Outstanding for the corresponding Bond Year, then the City will deposit, or cause to be deposited, within 180 days following the end of such Fiscal Year, to the Debt Service Reserve Account, moneys, investments, Qualified Reserve Fund Instruments or any combination thereof, equal to the Reserve Requirement, and (2) on the tenth (10th) day of each month, commencing on the first (1st) day of the month following a payment made on the Obligations from the Debt Service Reserve Account, an amount equal to one twelfth (1/12) of the amount which, when added to the balance then in the Debt Service Reserve Account, shall be equal to the Reserve Requirement.

(v) Commencing on \_\_\_\_ 10, 2023 and on the tenth (10th) day of each month thereafter, the City shall deposit to the Repair and Replacement Fund an amount equal to the amount required to fund and maintain the Repair and Replacement Fund in an amount equal to not less than two percent (2%) of the Revenues of the previous month until the amount accumulated in the Repair and Replacement Fund is in an amount equal to or greater than the Repair and Replacement Fund Funding Requirement; provided that at such time or times as there is on deposit in the Repair and Replacement Fund an amount at least equal to the Repair and Replacement Fund Funding Requirement, as shown in the most recent audited financial statements of the City, no amounts need to be deposited to the Repair and Replacement Fund

(c) In the event the City should fail to make when due any of the payments required by this Section, the installment so in default shall continue as an obligation of the City, payable solely from the Pledged Revenues, until the amount in default shall have been fully paid, and the City shall pay the same with interest thereon at the rate applicable to the corresponding maturities of Obligations, from the date said payment was to be made to the date of payment by the City until paid. The Purchase Agreement shall be deemed and construed to be a “net purchase agreement,” and the payments provided for in this Section shall be an absolute net return to the Seller, free and clear of any expenses or charges whatsoever, except as otherwise specifically provided in the Purchase Agreement. The City shall cause an amount of Revenues to be included in the annual budget for every Fiscal Year sufficient to meet all requirements of the Purchase Agreement.

(d) The City shall further also pay or reimburse the Insurer on demand any and all Administrative Costs. City agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semiannually, from the date that payment is first due to the Insurer until the date the Insurer is paid in full. Notwithstanding anything herein to the contrary, City shall further also pay to the Insurer the Insurer Reimbursement Amounts. City hereby covenants and agrees that the Insurer Reimbursement Amounts are payable from and secured by a lien on and pledge of revenues from the Pledged Revenues on a parity with debt service due on the Obligations.

\* \* \* \* \*

**Section 4.1. Limitation of Source of City Payments.**



(a) The Purchase Agreement is a limited, special obligation of the City, payable solely and secured as to the payment in accordance with the terms and the provisions of the Purchase Agreement.

(b) All amounts to be paid by the City pursuant to Section 3.3 of the Purchase Agreement (or under any other section of the Purchase Agreement) shall be payable solely from the Pledged Revenues. Nothing, however, shall preclude the City, in the sole and absolute discretion of the City Council, from paying such amounts from other moneys of the City; provided, however, under no circumstances shall amounts paid under the Purchase Agreement from such other moneys constitute a pledge thereof, and amounts payable by the City under the Purchase Agreement shall never constitute a general obligation of the City or a pledge of ad valorem property taxes by the City.

(c) The City pledges, and shall raise and apply, the Pledged Revenues in such amounts and in such manner as required to make the payments required to be made by the City under the Purchase Agreement and covenants to make said payments from the Pledged Revenues. This pledge shall be a first lien and on a parity to the pledge thereof and lien thereon for the Parity Obligations and the Additional Obligations. All of the Pledged Revenues shall be immediately subject to such pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the City, irrespective of whether such persons have notice thereof. Nothing contained in this Section shall be construed as limiting any authority granted elsewhere in the Purchase Agreement or the Parity Obligation Documents to incur the Purchase Agreement or Additional Obligations nor be deemed a limitation upon the issuance of bonds, notes or other obligations under any law pertaining to the City secured by moneys, income and funds other than the Pledged Revenues and other moneys and investments pledged under the Purchase Agreement or under the Trust Agreement. After the application of the Pledged Revenues for the purposes in the Purchase Agreement, they may be used for any lawful purpose.

\* \* \* \* \*

**Section 4.3. Prior Lien Obligations.** The City shall not incur any obligations payable from the Pledged Revenues ranking prior to the obligations of the City under the Purchase Agreement. (See Article IX of the Purchase Agreement, however, which provides that this Section 4.3 is inoperative until all the Bonds issued under the Master Bond Resolution are no longer Outstanding.)

\* \* \* \* \*

**Section 5.1. Utilities; Maintenance of the System in a Responsible Manner; Repair and Replacement Fund.**

(a) All maintenance and repair of the Series 2023 Projects and utilities therefor shall be the responsibility of the City. The Seller as Trustee under the Trust Agreement shall have no obligation with respect to the operation or maintenance of the Series 2023 Projects. (In exchange for the payment of the amounts due under the Purchase Agreement, the Seller shall provide nothing more than the Series 2023 Projects.) The City shall (a) operate and maintain the System in a responsible manner and at a reasonable cost and (b) perform all functions with reference to the System required by the Constitution and laws of the State.

(b) The City previously created the Repair and Replacement Fund in its custody. Amounts in the Repair and Replacement Fund shall be used (without priority): (i) for making extraordinary repairs or replacements to the System which are necessary to keep the System in operating condition and for the making of which provision has not been made in the annual budget and money is not available as an Operating Expense, (ii) as provided in Section 3.3(b), (iii) for the payment of any sums due and owing to the Holders of the Obligations, Parity Obligations and Additional Obligations being refunded which sums cannot for any reason be paid from the income and proceeds of any Defeasance Obligations held by a Depository Trustee, (iv) for the acquisition of water, electrical, natural gas, wastewater and solid waste properties or facilities deemed necessary by the City to the efficient and economical operation of the System or to extend or improve the System, and (v) for otherwise acquiring, constructing and improving the System. Notwithstanding anything in the Purchase Agreement or in the Trust Agreement to the contrary, if, after any Fiscal Year, amounts in the Repair and Replacement Fund exceed the Repair and Replacement Fund Funding Requirement, such amounts in excess of the Repair and Replacement Fund Funding Requirement held in the Repair and Replacement Fund may be released and used by the City for any lawful purpose. Notwithstanding any provision of the Trust Agreement or the Agreement to the contrary, the Repair and Replacement Fund is in no way pledged or liened pursuant to the Purchase Agreement as a source of payment for the Purchase Price, and the City may waive, terminate or modify the uses of the Repair and Replacement Fund at any time without obtaining any consent from Holders of the Obligations.

**Section 5.2. Insurance.** The City shall maintain insurance on the System (which may take the form of or include an adequately-funded program of self-insurance), for the benefit of the Holder or Holders of the Obligations payable wholly or in part from the Revenues, for the full insurable value of all buildings and machinery and equipment therein, against loss or damage by fire, lightning, tornado or winds, and all other combustible property against loss or damage by fire or lightning, and other coverages and amounts of insurance (including public liability and damage to property of others to the extent deemed prudent by the City), normally carried by others on similar operations. The cost of such insurance may be paid as an Operating Expense. All money received for losses under any such insurance policies, except public liability policies, is pledged by the City as security for the payment of the Purchase Agreement until and unless such proceeds are paid out in making good the loss or damage in respect of which such proceeds are received. Self-insurance may be maintained for the System either separately or in connection with any general self-insurance retention program or other insurance program maintained by the City; provided that (a) any such program has been adopted by the City and (b) the City's risk manager or other appropriate officer of the City annually reviews any such program to confirm that such program is adequate and actuarially sound.

**Section 5.3. No Sale; Lease or Encumbrance Exceptions.**

(a) The City shall not sell, lease, encumber or in any manner dispose of the System as a whole until all of the Obligations and all interest thereon shall have been paid in full or provision for payment has been made in accordance with the Trust Agreement.

(b) The City may sell, lease or otherwise dispose of any of the property comprising a part of the System in the following manner, if any one of the following conditions exists: (a) such property is not necessary for the operation of the System, (b) such property is not useful in the operation of the System, (c) such property is not profitable in the operation of the System or (d) the disposition of such property will be advantageous to the System and will not adversely affect the security for the Holders of the Obligations. In addition, the City may sell to any municipality or political subdivision of the State or any agency of any one or more of them, any portion of the System if there is filed with the Deputy City Manager and Chief Financial Officer a certificate executed by the Consultant showing that, in opinion of such Consultant, the proposed sale will not reduce the Pledged Revenues to be received in the full Bond Year next succeeding such sale to an amount less than 120 percent of the Parity Lien Test Debt Service. In making such computation, the Consultant shall consider such matters as such Consultant deems appropriate including: (i) anticipated diminution of Revenues; (ii) anticipated increase or decrease in Operating Expenses attributable to the sale and (iii) reduction, if any, in annual principal and interest requirements attributable to the application of the sale proceeds for payment of Obligations then Outstanding. The proceeds of the disposition of such property shall be placed in the Repair and Replacement Fund in addition to all other amounts required in the current Fiscal Year.

(c) The City may sell or otherwise transfer the System as a whole to any municipality or political subdivision or agency of one or more political subdivisions of the State to which may be delegated the legal authority to own and operate the System on behalf of the public, and that undertakes in writing, filed with the Deputy City Manager and Chief Financial Officer, the City's obligations under the Purchase Agreement; provided that there shall be first filed with the Deputy City Manager and Chief Financial Officer (1) a Special Counsel's Opinion to the effect that (A) such sale will not cause interest on any of the Obligations to become subject to federal income taxation, (B) such sale will not materially diminish the security of the Holders of the Obligations (which opinion may be based on the Consultant's report described in clause (2), below) and (C) the obligations of the City under the Purchase Agreement have been validly assumed by such transferee and are the valid and legally binding obligations of such transferee and (2) an opinion of a Consultant expressing the view that such transfer in and of itself will not result in any diminution of the Pledged Revenues to the extent that in the full Bond Year next succeeding such transfer the Pledged Revenues will be less than 120 percent of the Parity Lien Test Debt Service. In reaching this conclusion, the Consultant shall take into consideration such factors as he may deem significant including any rate schedule to be imposed by said political subdivision or agency. The proceeds of the disposition of such property shall be placed in the Repair and Replacement Fund in addition to all other amounts required in the current Fiscal Year.

(d) Notwithstanding the above provisions, the City may sell or lease all or any part of the System in connection with the issuance of Additional Obligations to finance additional improvements to the System or refinance the Obligations, Parity Obligations, Additional Obligations or Bonds provided that such sale or lease does not permit foreclosure, or other loss by the City, of such portion of the System.

\* \* \* \* \*

**Section 5.6. Disconnection of Service for Non-Payment; No Free Service.**

(a) The City shall diligently enforce payment of all bills for services supplied by the System. If a bill becomes delinquent and remains so for a period to be determined in accordance with City policy from time to time, the City shall discontinue service in accordance with the laws of the State to any premises the owner or occupant of which shall be so delinquent, and will not recommence such service to such premises until the delinquent charges shall have been paid or provisions for payment satisfactory to the City shall have been made. The City shall do all things and exercise all remedies reasonably available to assure the prompt payment of charges for all services supplied by the System.

(b) No free service shall be furnished by the System to the City or any department thereof or to any person, firm or corporation, public or private, or to any public agency or instrumentality, except as provided in the Purchase Agreement. The reasonable cost and value of all service rendered to the City and its various departments by the System shall be charged against the City and will be paid for as the service occurs from the City's current funds. All payments so made shall be considered Revenues and shall be applied in the manner provided in the Purchase Agreement for the application of the Revenues of the System.

**Section 5.7. No Competing System.** The City shall not, to the extent permitted by law, grant a franchise or permit for the operation of any competing system within, in whole or in part, the service areas of the System.

\* \* \* \* \*

**Section 7.1. Purchase Events of Default.** Any one or more of the following events ("Purchase Events of Default") shall constitute a default under the Purchase Agreement:

(a) The City shall fail to make any payment when due under Section 3.3(b)(ii) or (iii) of the Purchase Agreement; or

(b) The City shall fail to make any payment under Section 3.3(b)(i), (iv) or (v) of the Purchase Agreement for a period of 30 days after notice of such failure shall have been given in writing to the City by the Seller or by the Trustee; or

(c) The City shall fail to perform any other covenant in the Purchase Agreement for a period of 30 days after written notice specifying such default shall have been given to the City by the Seller or the Trustee, provided that if such failure is a type that it cannot be remedied within such 30 day period, it shall not be deemed a Purchase Event of Default so long as the City diligently tries to remedy the same; or

(d) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the federal bankruptcy statutes, as amended, or under any similar acts that may be enacted after execution of the Purchase Agreement.

**Section 7.2. Remedies on Default by City.** Upon the occurrence of a Purchase Event of Default, the Trustee, as Seller, shall, but only if indemnified to its satisfaction by the Holders (if acting upon direction from the Holders of a majority in aggregate principal amount of the Obligations), without further demand or notice, exercise any of the available remedies at law or in equity, including, but not limited to, specific performance, except that under no circumstances may amounts due under the Purchase Agreement be accelerated. Upon the filing of suit by the Trustee, any court having jurisdiction of the action may appoint a receiver to administer the System for the City with power to charge and collect fees sufficient to pay all of the Operating Expenses and to make all required payments under the Purchase Agreement. The Trustee, as Seller, may assign any or all of its rights and privileges under this Section to the Trustee, and the Trustee may exercise any or all of such rights or privileges as it may deem advisable.

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**Section 8.12. Certain Statutory Notices.**

(a) To the extent applicable by provision of law, the Trustee acknowledges that the Purchase Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated in the Purchase Agreement and that provides that the City may within three years after its execution cancel any contract (including the Purchase Agreement) without penalty or further obligation made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is at any

time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

\* \* \* \* \*

**Article IX. Master Bond Resolution.** The terms and provisions of the Master Bond Resolution will control in all respects to the extent the Master Bond Resolution is inconsistent with the Purchase Agreement, including, but not limited, with respect to definitions; priority of pledge, lien and security for the Bonds (as defined in the Master Bond Resolution) issued under the Master Bond Resolution and credit enhancement for such bonds; flow of, and deposit to, funds; covenants regarding the System; defaults and remedies; etc. So long as the Bonds are Outstanding (as defined in the Master Bond Resolution), the Obligations and any Additional Obligations shall be junior in lien to the Bonds, as permitted by the Master Bond Resolution. For purposes of the Purchase Agreement, the City waives its rights to amounts held in the Replacement Fund established pursuant to the Master Bond Resolution. See APPENDIX E – “Summary of the Master Bond Resolution, As Amended.”

So long as the Bonds are Outstanding under the Master Bond Resolution, the first sentence of the definition of “Pledged Revenues” pertaining to the Obligations shall be modified such that Pledged Revenues means Net Revenues (as defined in the Master Bond Resolution) less the payments made by the City pursuant to Section 10(B) of the Master Bond Resolution to the Bond Fund, the Reserve Fund, the Reimbursement Fund and the Rebate Fund (each as defined in the Master Bond Resolution).

So long as the Bonds are Outstanding under the Master Bond Resolution, the reference in Section 4.1(c) to “first lien” is modified to be “junior lien.”

So long as the Bonds are Outstanding under the Master Bond Resolution, the transfers and payments in Sections 3.3(a) and 3.3(b) shall be made after the transfers and payments required in Section 10(B) of the Master Bond Resolution.

So long as Bonds are Outstanding under the Master Bond Resolution, Section 4.3 shall read as follows: “The City shall not incur any obligations payable from the Net Revenues (as defined in the Master Bond Resolution) ranking prior to the obligations of the City under the Master Bond Resolution. The City shall not incur any obligations payable from the Pledged Revenues ranking prior to the obligations of the City under the Purchase Agreement, provided that the City may issue Bonds upon meeting the conditions specified in the Master Bond Resolution.”

So long as the Bonds are Outstanding under the Master Bond Resolution, Section 5.3(b) of the Purchase Agreement is modified such that the certificate of the Consultant to be filed with the Deputy City Manager and Chief Financial Officer shall indicate the proposed sale will not reduce the Net Revenues (as defined in the Master Bond Resolution) to be received in the full Bond Year next succeeding such sale to an amount less than 120 percent of the highest aggregate Principal Requirement and Interest Requirement of all Outstanding Obligations, Parity Obligations and Additional Obligations, plus the Maximum Annual Debt Service (as defined in the Master Bond Resolution) on all Outstanding Bonds.

So long as the Bonds are Outstanding under the Master Bond Resolution, Section 5.3(c) of the Purchase Agreement is modified such that the opinion of a Consultant described in clause (2) of Section 5.3(c) of the Purchase Agreement shall express the view that such transfer in and of itself will not result in any diminution of the Net Revenues (as defined in the Master Bond Resolution) to the extent that in the full Bond Year next succeeding such transfer the Net Revenues will be less than 120 percent of the highest aggregate Principal Requirement and Interest Requirement of all Outstanding Obligations, Parity Obligations and Additional Obligations, plus the Maximum Annual Debt Service (as defined in the Master Bond Resolution) on all Outstanding Bonds.

So long as the Bonds are Outstanding under the Master Bond Resolution, for purposes of the calculations in Sections 4.4, 5.3(b) and 5.3(c) of the Purchase Agreement, each as such Sections are modified by Article IX of the Purchase Agreement, additional amounts will be added to, or subtracted from, the Net Revenues in accordance with the second sentence of the definition of Pledged Revenues and otherwise in accordance with Section 14(A)(1) of the Master Bond Resolution. See APPENDIX E – “Summary of the Master Bond Resolution, As Amended – Equality of Lien; Prohibition of Future Lien.”

So long as the Bonds are Outstanding under the Master Bond Resolution, the proceeds of any disposition described in Sections 5.3(b) or 5.3(c) of the Purchase Agreement shall be deposited by the City in the Revenue Fund in accordance with the Master Bond Resolution.

So long as Bonds are Outstanding under the Master Bond Resolution, the Repair and Replacement Fund Funding Requirement shall be \$0.00.

Article IX of the Purchase Agreement shall be applicable only until the Bonds are no longer “Outstanding” pursuant to the Master Bond Resolution. The City shall not amend or otherwise modify the Master Bond Resolution in any manner that adversely affects the rights of the Holders of the Obligations.

## The Trust Agreement

**Granting Clauses.** Pursuant to the Trust Agreement, the Trustee has been granted a security interest in and the following described property has been released, assigned, transferred, pledged mortgaged, granted and conveyed to the Trustee:

A. All rights and interests of the Seller in, under and pursuant to the Purchase Agreement as assigned, mortgaged, hypothecated and pledged to the Trustee pursuant to the Purchase Agreement, provided that the assignment made by this clause shall not include any right to limitation of liability, indemnification of liability, or payment or reimbursement of fees, costs or expenses,

B. Amounts on deposit from time to time in the funds and accounts created pursuant to the Trust Agreement, subject to the provisions of the Trust Agreement permitting the application thereof for the purposes and on the terms and conditions set forth in the Trust Agreement and

C. Any and all other real or personal property of any kind from time to time after execution of the Trust Agreement by delivery or by writing of any kind specifically conveyed, pledged, assigned or transferred, as and for additional security under the Trust Agreement for the Obligations, by the City or by anyone on its behalf or with its written consent, in favor of the Trustee.

\* \* \* \* \*

**Section 1.3. All Obligations Equally and Ratably Secured; Obligations Not General Obligations of the City.** All of the Obligations executed and delivered under the Trust Agreement and at any time Outstanding shall in all respects be equally and ratably secured by the Trust Agreement, without preference, priority, or distinction on account of the date or dates or the actual time or times of the execution and delivery or maturity of the Obligations, so that all Obligations at any time Outstanding under the Trust Agreement shall have the same right, lien and preference under the Trust Agreement. The Obligations shall be payable solely out of the revenues and other security pledged by the Trust Agreement and shall not constitute an indebtedness, a general obligation or a pledge of *ad valorem* property taxes of the City within the meaning of any State constitutional provision or statutory limitation. The Obligations shall never constitute or give rise to a pecuniary liability of the City or be a charge against the City's general credit, and the Obligations shall never constitute a charge against the general credit or the taxing powers of the State or any political subdivision thereof.

\* \* \* \* \*

**Section 5.3. Flow of Funds into the Obligation Fund.** The following payments to the Trustee shall be applied in the following manner:

(i) The Trustee shall deposit to the Interest Account amounts paid pursuant to Section 3.3(b)(ii) of the Purchase Agreement. (Amounts transferred pursuant to Section 2.2(d) of the Purchase Agreement and Section 5.4(iii)(C) of the Trust Agreement shall also be deposited into the Interest Account.)

(ii) The Trustee shall deposit to the Principal Account amounts paid pursuant to Section 3.3(b)(iii) of the Purchase Agreement as well as the total of any amounts received for any redemption of Obligations. (Amounts transferred pursuant to Section 2.2(d) of the Purchase Agreement and Section 5.4(iii)(C) of the Trust Agreement shall also be deposited in the Principal Account.)

(iii) The Trustee shall deposit to the Debt Service Reserve Account amounts paid pursuant to Section 3.3(b)(iv) of the Purchase Agreement. No deposit need be made into the Debt Service Reserve Account if the amount on deposit therein plus the maximum amount of the Qualified Reserve Fund Instruments contained therein equals the Reserve Requirement. The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Account.

**Section 5.4. Flow of Funds out of the Obligation Fund.** Amounts in the following accounts shall be applied in the following manner:

(i) Amounts in the Interest Account shall be used to pay interest on the Obligations as it becomes due.

(ii) Amounts in the Principal Account shall be used to retire Obligations by payment at their scheduled maturity date, mandatory redemption date or optional redemption date.

(iii) (A) Amounts in the Debt Service Reserve Account shall be used to pay the interest on, or to retire at their scheduled maturity or mandatory redemption date, the Series Obligations in the event that no other money of the City is available therefor or for the retirement (including by defeasance pursuant to Section 10.2 of the Trust Agreement) of all of the Obligations then Outstanding. If and to the extent that money has been deposited in the Debt Service Reserve Account, all such money shall be used (or investments purchased with such money shall be liquidated and the proceeds applied as required) prior to any drawing under a Qualified Reserve Fund Instrument.

(B) Notwithstanding anything in the Trust Agreement or in the Purchase Agreement to the contrary, if, after the City has been required to make deposits to the Debt Service Reserve Account pursuant to Section 3.3(b)(iv) of the Purchase Agreement, the Pledged Revenues for two consecutive Fiscal Years equal or exceed 175 percent of the aggregate Principal Requirement and the Interest Requirement on all Obligations, Parity Obligations and Additional Obligations then Outstanding for the corresponding Bond Year for such Fiscal Years (as certified in writing by the City to the Trustee), any moneys and/or Qualified Reserve Fund Instruments held in the Debt Service Reserve Account may, at the written request of the City, be released to or as directed in writing by the City and (except as otherwise limited by the terms of any Qualified Reserve Fund Instrument) used by the City for any lawful purpose, and the City's obligation to maintain the Reserve Requirement in the Debt Service Reserve Account shall terminate, subject to Section 3.3(b)(iv) of the Purchase Agreement for funding the Debt Service Reserve Account if the circumstances described in Section 3.3(b)(iv) of the Purchase Agreement occur.

(C) If on July 2 of any year the amount in the Debt Service Reserve Account exceeds an amount equal to the Reserve Requirement and if the City is not then in default under the Purchase Agreement, the Trustee shall withdraw the amount of any such excess from such account and shall apply such amount, first and on a pro-rata basis, to pay amounts due with respect to the Qualified Reserve Fund Instrument, including by transferring amounts in the "reimbursement fund" established to reimburse the provider of the Qualified Reserve Fund Instrument for any payments made by the provider thereof until the corresponding costs with respect thereto are paid, second, as a deposit to the Interest Account, and third, if the amount in the Interest Account is equal to or greater than the interest due on the Obligations on the next Obligation Payment Date, as a deposit to the Principal Account.

(D) The Trustee is also directed to draw on a Qualified Reserve Fund Instrument in accordance with the terms included in the definition of Qualified Reserve Fund Instrument.

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**Section 5.6. Investment of Moneys Held by Trustee.**

(a) Moneys in all funds and accounts held by the Trustee shall be invested by the Trustee, as soon as possible upon receipt of immediately available funds at its designated corporate trust office, to the fullest amount possible, in Permitted Investments as directed, in writing, by the City Representative; provided that the maturity date or the date on which such Permitted Investments may be redeemed at the option of the holder thereof shall coincide as nearly as practicable with (but in no event shall be later than) the date or dates on which moneys in the funds or accounts for which the investments were made will be required for the purposes thereof. In the event no investment direction is given to the Trustee by the City, then the Trustee shall invest moneys in investments described in a money market fund permitted by clause 7 of the definition of Permitted Investments.

(b) Amounts credited to a fund or account may be invested, together with amounts credited to one or more other funds or accounts, in the same Permitted Investment, provided that (i) each such investment complies in all respects with the provisions of subsection (a) of this Section as they apply to each fund or account for which the joint investment is made and (ii) the Trustee maintains separate records for each fund and account and such investments are accurately reflected therein.

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**Section 7.1. Events of Default.** Each of the following is declared a “Trust Agreement Event of Default” under the Trust Agreement:

(a) If payment of any installment of interest on any Obligation is not made in full when the same becomes due and payable;

(b) If payment of the principal or redemption premium, if any, on any Obligation is not made in full when the same becomes due and payable;

(c) If, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of all or any part of the interests pledged under the Trust Agreement and such custody or control continues for more than 60 days;

(d) If the City defaults in the due and punctual performance of any other covenant, condition, agreement or provision on its part to be performed as provided in the Trust Agreement or in the Obligations and such default continues for 30 days after the Trustee gives the City written notice specifying such default, unless within such 30 days the City commences and diligently pursues in good faith appropriate corrective action to the satisfaction of the Trustee, the Trustee may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than 25 percent in principal amount of the Obligations then Outstanding; or

(e) If any event of default provided by Section 7.1 of the Purchase Agreement occurs.

**Section 7.2. Remedies and Enforcement of Remedies.**

(a) Upon the occurrence and continuance of any Trust Agreement Event of Default and in accordance with the Trust Agreement and the Purchase Agreement, the Trustee may, and upon the written request of the Holders of not less than a majority in principal amount of the Obligations Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall, protect and enforce its rights and the rights of the Holders under the Trust Agreement and the Purchase Agreement by such suits, actions or proceedings as the Trustee, being advised by counsel, deems expedient, including but not limited to, an action for the recovery of any amounts due under the Trust Agreement for the breach of the Trust Agreement, and the Trustee may pursue any other remedy afforded by law or in equity, including the remedy of specific performance. The Trustee shall also have those remedies provided pursuant to the Purchase Agreement subject to any limitations on such remedies set forth therein.

(b) Regardless of the happening of a Trust Agreement Event of Default and subject to Section 7.7 of the Trust Agreement, the Trustee, if requested in writing by the Holders of not less than a majority in principal amount of the Obligations then outstanding shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it deems necessary or expedient (i) to prevent any impairment of the security under the Trust Agreement by any acts that may be unlawful or in violation of the Trust Agreement, or (ii) to preserve or protect the interests of the Holders, provided that such request is in accordance with law and the provisions of the Trust Agreement and, in the sole judgment of the Trustee, is not unduly prejudicial to the interest of the Holders of Obligations not making such request.

**Section 7.3. No Acceleration.** In no event shall the Trustee have the right to accelerate or cause to become immediately due and payable, or payable in advance of their scheduled maturity dates, any amounts due under the Trust Agreement other than as a result of optional redemption pursuant to the Trust Agreement and then only to the extent of the amount to be so redeemed.

**Section 7.4. Application of Revenues and Other Moneys After Default.**

(a) During the continuance of a Trust Agreement Event of Default all moneys received by the Trustee pursuant to any right given or action taken under the provisions of the Trust Agreement together with all moneys held by the Trustee pursuant to the Trust Agreement, shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses and advances incurred or made by the Trustee with respect thereto, be deposited in the Obligation Fund, and all amounts held by the Trustee under the Trust Agreement shall be applied as follows provided, that if the amount available shall not be sufficient to pay in full any amount or amounts then due, then to the payment thereof ratably in a manner consistent with Section 3.3 of the Purchase Agreement, according to the amounts due to the Persons entitled thereto, without any discrimination or preference:

First: To the payment of all installments of interest then due (including interest on amounts not paid when due on the Obligations); and



Second: To the payment of the unpaid Principal Installments or redemption price of any Obligations that shall have become due, whether at maturity or by call for redemption, in the order of their due dates.

(b) Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal of the Obligations to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any unpaid Obligation until such Obligation is presented to the Trustee for appropriate endorsement of any partial payment or for cancellation if fully paid.

(c) Whenever all principal of and interest on the Obligations that has become due has been paid under the provisions of this Section and all expenses and charges of the Trustee have been paid and the Obligation Fund contains the amounts then required to be credited thereto, any balance remaining shall be paid to the City.

\* \* \* \* \*

**Section 7.7. Individual Holder Action Restricted.**

(a) No Holder of any Obligation shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of the Trust Agreement or for the execution of any trust or for any remedy under the Trust Agreement except for the right to institute any suit, action or proceeding in equity or at law for the enforcement of the Trustee's duties and powers under the Trust Agreement upon the occurrence of all of the following events:

(i) The Holders of at least a majority in principal amount of Obligations Outstanding have made written request to the Trustee to proceed to exercise the powers granted in the Trust Agreement; and

(ii) Such Holders have offered to indemnify the Trustee as provided in Section 8.2(v) of the Trust Agreement; and

(iii) The Trustee has failed or refused to exercise the duties or powers granted in the Trust Agreement for a period of 60 days after receipt by it of such request and offer of indemnity; and

(iv) During such 60-day period no direction inconsistent with such written request has been delivered to the Trustee by the Holders of a greater majority in principal amount of Obligations then Outstanding.

(b) No one or more Holders of Obligations shall have any right in any manner whatsoever to affect, disturb or prejudice the security thereof or to enforce any right under the Trust Agreement except in the manner provided in the Trust Agreement and for the equal benefit of the Holders of all Obligations Outstanding.

(c) Nothing contained in the Trust Agreement shall affect or impair, or be construed to affect or impair, the right of the Holder of any Obligation (i) to receive payment of the principal of or premium, if any, or interest on such Obligation, as the case may be, on or after the due date thereof or (ii) to institute suit for the enforcement of any such payment on or after such due date; provided, however, no Holder of any Obligation may institute or prosecute any such suit if, and to the extent that, the institution or prosecution of such suit or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the lien of the Trust Agreement on the moneys, funds and properties pledged under the Trust Agreement for the equal and ratable benefit of all Holders of Obligations.

\* \* \* \* \*

**Section 7.9. Waiver of Trust Agreement Event of Default.**

(a) No delay or omission of the Trustee or of the Holder of any Obligations to exercise any right or power accruing upon any Trust Agreement Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Trust Agreement Event of Default or an acquiescence therein. Every power and remedy given by the Trust Agreement may be exercised from time to time and as often as may be deemed expedient.

(b) The Trustee may waive any Trust Agreement Event of Default that in its opinion has been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under, the provisions of the Trust Agreement, or before the completion of the enforcement of any other remedy under the Trust Agreement.

(c) In case of any waiver by the Trustee of a Trust Agreement Event of Default under the Trust Agreement, the City, the Trustee and the Holders shall be restored to their former positions and rights under the Trust Agreement, respectively, but no such waiver shall extend to any subsequent or other Trust Agreement Event of Default. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Trust Agreement Event of Default in accordance with this Section.

\* \* \* \* \*

**Section 8.1. Certain Duties and Responsibilities of Trustee.**

(a) Except during the continuance of a Trust Agreement Event of Default:

(i) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in the Trust Agreement, and no implied covenants or obligations shall be read into the Trust Agreement against the Trustee; and

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of the Trust Agreement; but in the case of any such certificates or opinions which are required by any provision of the Trust Agreement or the Purchase Agreement, the Trustee shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of the Trust Agreement or the Purchase Agreement on their face.

(b) In case a Trust Agreement Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by the Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances.

(c) No provision of the Trust Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection (c) shall not be construed to limit the effect of subsection (a);

(ii) the Trustee shall not be liable for any error of judgment made in good faith and without negligence or willful misconduct by a president or vice-president of the board of directors, the president or vice-president of the executive committee of the board of directors, the president, any vice president, any assistant vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any associate or senior associate, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers or, with respect to a particular matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith and without negligence or in accordance with the direction of the Holders of the Outstanding Obligations as provided in the Trust Agreement relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under the Trust Agreement; and

(iv) no provision of the Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under the Trust Agreement, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it. The Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment properly to be done by it as the Trustee, without prior assurance of indemnity, and in such case shall be entitled to reimbursement by the City for all reasonable costs, expenses, attorneys' and other fees and expenses, and all other reasonable disbursements, including its own fees and expenses, and for all liability and damages suffered by the Trustee in connection therewith except for the Trustee's negligence or willful misconduct.

(d) Whether or not therein expressly so provided, every provision of the Trust Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

**Section 8.2. Certain Rights of Trustee.** Except as otherwise provided in Section 8.1 of the Trust Agreement:

\* \* \* \* \*

(v) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by the Trust Agreement or by the Purchase Agreement at the request or direction of any of the Holders pursuant to the Trust Agreement unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

\* \* \* \* \*

**Section 8.6. Removal and Resignation of Trustee.**

(a) The Trustee may resign at any time from the trusts created by the Trust Agreement by giving written notice of the resignation to the City and any Paying Agents and by mailing written notice of the resignation to the Holders as their names and addresses appear on the register it maintains with respect to the Obligations at the close of business 15 days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee. Any such resignation of the Trustee shall also automatically be deemed a resignation by the Trustee as Seller.

(b) The Trustee may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the City and any Paying Agents and signed by (i) the City Representative or (ii) by or on behalf of the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding. The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of the Trust Agreement with respect to the duties and obligations of the Trustee by an instrument signed by the City or by any court of competent jurisdiction upon the application of the City, or the Holders of not less a majority in aggregate principal amount of the Obligations then Outstanding under the Trust Agreement. Any removal shall not take effect until a successor Trustee has been appointed. In the event a successor Trustee has not been appointed and qualified within 60 days of the date notice of resignation or removal is given, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time as a successor is appointed as provided in this Section.

(c) In the event of the resignation or removal of the Trustee or in the event the Trustee is dissolved or otherwise becomes incapable to act as the Trustee, the City shall be entitled to appoint a successor Trustee acceptable to the City.

(d) If the Holders of a majority of the principal amount of Obligations then Outstanding object to the successor Trustee so appointed by the City and if such Holders designate another Person qualified to act as the Trustee, the City shall then appoint as the Trustee the Person so designated by the Holders.

\* \* \* \* \*

**Section 8.8. Trustee's Fees and Expenses.**

(a) The Trustee shall be entitled to be paid from time to time reasonable compensation for all services rendered by it under the Trust Agreement; to reimbursement upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of the Trust Agreement (including the reasonable compensation and the expenses and disbursements of its counsel and its agents), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith or willful misconduct; and, together with the Trustee's officers, directors, agents and employees, to be indemnified by the City, for, from and against any loss, liability or expense arising out of or in connection with the acceptance or administration of the trust or its duties under the Trust Agreement.

\* \* \* \* \*

**Section 9.1. Supplements not Requiring Consent of Holders.** The City acting through the City Representative and the Trustee may, without the consent of or notice to any of the Holders, enter into one or more supplements to the Trust Agreement for one or more of the following purposes:

(i) To cure any ambiguity or formal defect or omission in the Trust Agreement or to correct or supplement any provision in the Trust Agreement that is inconsistent with any other provision in the Trust Agreement, or to make any other provisions with respect to matters or questions arising under the Trust Agreement provided such action shall, in the opinion of counsel delivered to the Trustee, not materially adversely affect the interests of the Holders;

(ii) To grant or confer upon the Holders any additional rights, remedies, powers or authority that may lawfully be granted or conferred upon them;

(iii) To secure additional revenues or provide additional security or reserves for payment of the Obligations or to add a Qualified Reserve Fund Instrument and necessary, related provisions therefor;

(iv) To comply with the requirements of any state or federal securities laws or the Trust Indenture Act of 1939, as from time to time amended, if required by law or regulation lawfully issued thereunder;

(v) To provide for the appointment of a successor trustee or co-trustee pursuant to the terms of the Trust Agreement;

(vi) To permit Obligations in bearer form if the City and the Trustee receive a Special Counsel's Opinion that such action will not cause the interest on any Obligations to become includible in gross income for purposes of federal income taxes;

(vii) To preserve the exclusion of the interest on the Obligations from gross income for purposes of federal or State income taxes and to preserve the power of the City to continue to incur obligations (specifically not limited to the Obligations) the interest on which is likewise exempt from federal and State income taxes; and

(viii) To adopt procedures for the disclosure of information to Holders and to others in accordance with any guidelines for such purpose promulgated by the American Bankers Association or some other similar national organization, as such guidelines may be made applicable to the Trust Agreement by agreement of the Trustee and the City.

**Section 9.2. Supplements Requiring Consent of Holders.**

(a) Other than supplements to the Trust Agreement referred to in Section 9.1 of the Trust Agreement and subject to the terms and provisions and limitations contained in the Trust Agreement and not otherwise, the Holders of not less than a majority in principal amount of the Obligations then Outstanding shall have the right, from time to time, anything contained in the Trust Agreement to the contrary notwithstanding, to consent to and approve the execution by the City Representative and the Trustee of such supplement as shall be deemed necessary and desirable by the City and the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Trust Agreement; provided, however, nothing in this Section or Section 9.1 of the Trust Agreement shall permit or be construed as permitting a supplement to the Trust Agreement that would:

(i) extend the stated maturity of or time for paying interest on any Obligation or reduce the principal amount of or rate of interest payable on any Obligation without the consent of the Holder of such Obligation;

(ii) prefer or give a priority to any Obligation over any other Obligation without the consent of the Holder of such Obligation;

(iii) reduce the principal amount of Obligations then outstanding the consent of the Holders of which is required to authorize such supplement without the consent of the Holders of all Obligations then Outstanding;

(iv) increase the principal amount of Obligations then Outstanding, the request of the Holders of which is required by Section 7.1(d) of the Trust Agreement, without the consent of the Holders of all Obligations then Outstanding; or

(v) reduce the redemption price of any Obligation upon optional redemption or reduce any period of time prior to commencement of any optional redemption period set forth in Section 3.2 of the Trust Agreement without the consent of the Holder of such Obligation.

(b) If at any time the City requests the Trustee to enter into a supplement pursuant to this Section, the Trustee shall, upon being satisfactorily and specifically indemnified by the City with respect to expenses with respect to such supplement, cause notice of the proposed execution of such supplement to be mailed by first class mail, postage pre-paid, to all registered Holders of Obligations then Outstanding at their addresses as they appear on the registration books for the Obligations. The Trustee shall not, however, be subject to any liability to any Holder by reason of its failure to mail, or the failure of such Holder to receive, the notice required by this Section, and any such failure shall not affect the validity of such supplement when consented to and approved as provided in this Section. Such notice shall briefly set forth the nature of the proposed supplement and shall state that copies thereof are on file at the office of the Trustee for inspection by all Holders.

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**Section 9.4. Amendments to Purchase Agreement Not Requiring Consent of Holders.** The Trustee may, without the consent of or notice to any of the Holders, consent to and join with the City in the execution and delivery of any amendment, change or modification of the Purchase Agreement that is required (i) by the provisions of the Purchase Agreement; (ii) to cure any ambiguity or formal defect or omission or to correct or supplement any provision of the Purchase Agreement that is inconsistent with any other provision of the Purchase Agreement, or to make any other provisions with respect to matters or questions arising under the Purchase Agreement provided that the modification, in the opinion of counsel delivered to the Trustee under this Section, does not materially adversely affect the interests of the Holders; (iii) to add a Qualified Reserve Fund Instrument so long as any payments with regard to the new Qualified Reserve Fund Instrument are paid no sooner, or in an amount greater, than amounts required to be paid pursuant to Section 3.3(b)(iv) of the Purchase Agreement; (iv) to amend the description of the Series 2023 Projects; (v) to preserve the exclusion of the interest on the Obligations from gross income for purposes of federal or State income taxes and to preserve the power of the City to continue to incur bonds or other obligations (specifically not limited to the Obligations authorized by the Trust Agreement) the interest on which is likewise exempt from federal and State income taxes; and (vi) in connection with any other change in the Purchase Agreement that, in the opinion of counsel delivered to the Trustee, will not materially adversely affect the interests of the Holders or, in the opinion of the Trustee, the Trustee. In executing any amendment to the Purchase Agreement, the Trustee shall be entitled to receive and rely on an Opinion of Counsel stating that such amendment is authorized or permitted under the Trust Agreement and under the Purchase Agreement.

**Section 9.5. Amendments to Purchase Agreement Requiring Consent of Holders.**

(a) Except for amendments, changes or modification to the Purchase Agreement referred to in Section 9.4 of the Trust Agreement and subject to the terms, provisions and limitations contained in the Trust Agreement and not otherwise, the Trustee may consent to and join with the City in the execution and delivery of any amendment, change or modification to the Purchase Agreement only with the consent of the Holders of not less than a majority in principal amount of Obligations then Outstanding, given as provided in this Section, provided, however, no such amendment, change or modification may affect the obligation of the City to make payments, under the Purchase Agreement or reduce the amount of or extend the time for making such payments without the consent of the Holders of all Obligations then Outstanding.

\* \* \* \* \*

**Section 10.1. Discharge of Trust Agreement.**

(a) If payment of all principal of and premium, if any, and interest on all of the Obligations in accordance with their terms and as provided in the Trust Agreement and in the Purchase Agreement is made, or is provided for in accordance with Article X of the Trust Agreement, and if all other sums, if any, payable under the Trust Agreement shall be paid, then the liens, estates and security interests granted by the Trust Agreement shall cease. Thereupon, at the request of the City, and upon receipt by the Trustee of an Opinion of Counsel addressed to the City and the Trustee stating that all conditions precedent to the satisfaction and discharge of the lien of the Trust Agreement have been satisfied, the Trustee shall execute and deliver proper instruments acknowledging such satisfaction and discharging the lien of the Trust Agreement and the Trustee shall transfer all property held by it under the Trust Agreement, other than moneys or obligations held by the Trustee for payment of amounts due or to become due on the Obligations, to the City or such other Person as may be entitled thereto as their respective interests may appear. Such satisfaction and discharge shall be without

prejudice to the rights of the Trustee thereafter to charge and be compensated or reimbursed for services rendered and expenditures incurred in connection with the Trust Agreement.

(b) The City may at any time surrender to the Trustee for cancellation any Obligations previously executed and delivered that the City may have acquired in any manner whatsoever and such Obligations upon such surrender and cancellation shall be deemed to be paid and retired.

**Section 10.2. Providing for Payment of Obligations.**

(a) Payment of all or any part of the Obligations in authorized denominations may be provided for by the deposit with the Trustee or a Depository Trustee of moneys or Defeasance Obligations that are not redeemable in advance of their maturity dates. Amounts in the Debt Service Reserve Account may be included as part of such deposit only if all of the Series Obligations are to be defeased. The moneys and the maturing principal and interest income on such Defeasance Obligations, if any, shall be sufficient, as evidenced by a certificate of an independent nationally recognized certified public accountant or firm of such accountants, to pay when due the principal or redemption price of and interest on such Obligations. The moneys and Defeasance Obligations shall be held by the Trustee or such Depository Trustee irrevocably in trust for the Holders of such Obligations solely for the purpose of paying the principal or redemption price of and interest on such Obligations as the same shall mature, come due or become payable upon prior redemption, and, if applicable, upon simultaneous direction, expressed to be irrevocable, to the Trustee or such Depository Trustee as to the dates upon which any such Obligations are to be redeemed prior to their respective dates.

\* \* \* \* \*

(c) If payment of Obligations is so provided for, the Trustee or the Depository Trustee shall mail a notice so stating to (i) each Holder of an Obligation so provided for.

(d) Obligations, the payment of which has been provided for, in accordance with this Section, shall no longer be deemed outstanding under or secured by the Trust Agreement. The obligation in respect of such Obligations shall nevertheless continue but the Holders of those Obligations will thereafter be entitled to payment only from the moneys or Defeasance Obligations deposited with the Trustee or such Depository Trustee to provide for the payment of such Obligations.

(e) No Obligation may be so provided for if, as a result thereof or of any other action in connection with which the provisions for payment of such Obligation is made, the interest payable on any Obligation is made includible in gross income for purposes of federal income taxes. The Trustee and the City may rely upon a Special Counsel's Opinion to the effect that the provisions of this paragraph will not be breached by so providing for the payment of any Obligations.

\* \* \* \* \*

**Section 11.10 Certain Statutory Notices.**

(a) To the extent applicable by provision of law, the Trustee acknowledges that the Trust Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated in the Trust Agreement and which provides that the City may within three years after its execution cancel any contract (including the Trust Agreement) without penalty or further obligation made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

\* \* \* \* \*

**Section 12.1. Applicability of Provisions Relating to the Policy and the Insurer.** So long as the Policy is in effect and there is no Insurer Default, the Insurer will have certain rights and the provisions of Article XII of the Trust Agreement shall be applicable and supersede conflicting provisions of the Trust Agreement and the Purchase Agreement.

\* \* \* \* \*

**Section 12.3      Defeasance.**

(a)      Defeasance Obligations shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise may be authorized under State law and approved by the Insurer.

\* \* \* \* \*

**Section 12.5      Amendments, Supplements and Consents.** The Insurer's prior written consent is required for all amendments and supplements to the Purchase Agreement and the Trust Agreement, with certain exceptions described in the Trust Agreement.

\* \* \* \* \*

(b)      Whenever the Purchase Agreement or the Trust Agreement requires the consent of Holders of the Obligations, the Insurer's consent shall also be required. In addition, any amendment, supplement, modification to, or waiver of, either of the Purchase Agreement or the Trust Agreement that adversely affects the rights or interests of the Insurer shall be subject to the prior written consent of the Insurer.

(c)      Any reorganization or liquidation plan with respect to the City must be acceptable to the Insurer. The Trustee and each Holder appoint the Insurer as their agent and attorney-in-fact with respect to the Obligations and agree that the Insurer may at any time during the continuation of any Insolvency Proceeding direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any Claim, (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each Holder delegate and assign to the Insurer, to the fullest extent permitted by law, the rights of the Trustee and each Holder with respect to the Obligations in conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

(d)      Upon the occurrence and continuance of a Trust Agreement Event of Default, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Holders of the Obligations or the Trustee for the benefit of the Holders of the Obligations under the Purchase Agreement or the Trust Agreement. No Trust Agreement Event of Default may be waived without the Insurer's written consent.

(e)      Upon the occurrence and continuance of a Trust Agreement Event of Default, the Insurer shall be deemed to be the sole Holder of the Obligations for all purposes under the Purchase Agreement or the Trust Agreement, including, without limitation, for purposes of exercising remedies and approving amendments.

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**Section 12.6      The Insurer as Third-Party Beneficiary.** The Insurer is recognized as and shall be deemed to be a third-party beneficiary of the Purchase Agreement and the Trust Agreement and may enforce the provisions of the Purchase Agreement and the Trust Agreement as if it were a party thereto.

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**BOOK-ENTRY-ONLY SYSTEM**



## BOOK-ENTRY-ONLY SYSTEM

**This information concerning DTC and DTC's book-entry system has been obtained from DTC and the City takes no responsibility for the accuracy thereof. The Beneficial Owners (defined below) should confirm this information with DTC or the DTC participants.**

DTC will act as securities depository for the Obligations. The Obligations will be executed and delivered as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Obligations certificate will be executed and delivered for each maturity of the Obligations, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants" and, together with Direct Participants, "Participants"). DTC has a rating of "AA+" from Standard & Poor's. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Obligations under the DTC system must be made by or through Direct Participants, which will receive a credit for the Obligations on DTC's records. The ownership interest of each actual purchaser of each Obligation ("Beneficial Owner") is in turn to be recorded on the Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct Participant or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Obligations are to be accomplished by entries made on the books of Direct Participants and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Obligations, except in the event that use of the book-entry system for the Obligations is discontinued.

To facilitate subsequent transfers, all Obligations deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Obligations with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Obligations; DTC's records reflect only the identity of the Direct Participants to whose accounts such Obligations are credited, which may or may not be the Beneficial Owners. The Direct Participants and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Obligations may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Obligations, such as redemptions, tenders, defaults, and proposed amendments to the Obligations documents. For example, Beneficial Owners of Obligations may wish to ascertain that the nominee holding the Obligations for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Obligations within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Obligations unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Obligations are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds and principal and interest payments on the Obligations will be made by the Trustee to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name", and will be the responsibility of such Participant and not of DTC, the City or the Trustee, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds and principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct Participants and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Obligations purchased or tendered through its Participant to the Trustee, and shall effect delivery of such Obligations by causing the Direct Participant to transfer the Participant's interests in the Obligations, on DTC's records, to the Trustee. The requirement for physical delivery of Obligations in connection with an optional tender or mandatory purchase will be deemed satisfied when the ownership rights in the Obligations are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Obligations to the Trustee's DTC account.

DTC may discontinue providing its services as depository with respect to the Obligations at any time by giving reasonable notice to the Trustee or the City. Under such circumstances, in the event that a successor depository is not obtained, Obligation certificates are required to be printed and delivered.

The City may decide to discontinue the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Obligation certificates will be printed and delivered to DTC.

NONE OF THE CITY, THE TRUSTEE, THE UNDERWRITER OR THE FINANCIAL ADVISOR WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DTC, TO DIRECT PARTICIPANTS, OR TO INDIRECT PARTICIPANTS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT; (2) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE OBLIGATIONS UNDER THE AGREEMENT; (3) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR INTEREST OR PAYMENT AMOUNT DUE WITH RESPECT TO THE PRINCIPAL OR INTEREST OR PAYMENT AMOUNT DUE WITH RESPECT TO THE OBLIGATIONS; (4) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE OBLIGATIONS; OR (5) ANY OTHER MATTERS.

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**APPENDIX H**

**FORM OF APPROVING LEGAL OPINION**

[Closing Date]

UMB Bank, n.a., as Trustee  
Phoenix, Arizona

Re: Utility Systems Revenue Obligations, Series 2023 Evidencing Proportionate Interests of the Holders Thereof in Installment Payments of the Purchase Price To Be Paid by the City of Mesa, Arizona, Pursuant to an Installment Purchase Agreement, Dated as of December 1, 2023

We have examined the transcript of proceedings (the "Transcript") relating to the execution and delivery by UMB Bank, n.a. (the "Trustee"), of \$ \_\_\_\_\_,000 principal amount of Utility Systems Revenue Obligations, Series 2023 (the "Obligations"), dated \_\_\_\_\_, 2023, pursuant to a Trust Agreement, dated as of December 1, 2023 (the "Trust Agreement"), between the Trustee and the City of Mesa, Arizona (the "City"). The Obligations are being executed and delivered to finance the acquisition, construction, improvement, equipping and installation of improvements to the water, wastewater, natural gas, solid waste and electrical systems of the City (collectively, the "System"). Each of the Obligations evidence a proportionate, undivided interest in certain obligations of the City pursuant to an Installment Purchase Agreement, dated as of December 1, 2023 (the "Purchase Agreement"), between the Trustee, in its capacity as seller (the "Seller"), and the City, as purchaser, pursuant to which the City has agreed to make certain installment purchase payments to the Seller. The Obligations are payable solely, as to both principal and interest, from such installment purchase payments made by the City pursuant to the Purchase Agreement. The City and the Seller have assigned certain of their rights in and benefits from, and their obligations pursuant to, the Purchase Agreement to the Trustee pursuant to the Trust Agreement. Capitalized terms used and not otherwise defined herein have the meanings ascribed in the Trust Agreement and the Purchase Agreement. In addition, we have examined such other proceedings, proofs, instruments, certificates and other documents as well as such other materials and such matters of law as we have deemed necessary or appropriate for the purposes of the opinions rendered herein below.

In such examination, we have examined originals (or copies certified or otherwise identified to our satisfaction) of the foregoing and have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies and the accuracy of the statements contained in such documents. As to any facts material to our opinions, we have, when relevant facts were not independently established, relied upon the aforesaid documents contained in the Transcript.

We have also relied upon the opinions of the City Attorney delivered of even date herewith as to the matters provided therein.

Based upon such examination, we are of the opinion that, under the law existing on the date of this opinion:

1. The Obligations, the Trust Agreement and the Purchase Agreement are legal, valid, binding and enforceable in accordance with their respective terms, except that the binding effect and enforceability thereof and the rights thereunder are subject to applicable bankruptcy, insolvency, reorganization, moratorium and other laws in effect from time to time affecting the rights of creditors generally; except to the extent that the enforceability thereof and the rights thereunder may be limited by the application of general principles of equity and, as to the Trust Agreement and the Purchase Agreement, except to the extent that the enforceability of the indemnification provisions thereof may be affected by applicable law.

2. The obligation of the City for the payment of the installment purchase payments required to be paid by the City pursuant to the Purchase Agreement constitutes a valid and binding limited, special obligation of the City, payable solely from and secured solely by a pledge of, a lien on and a security interest in the Pledged Revenues, consisting generally of revenues derived by the City from the operation of the System after sufficient funds have been provided for the operating expenses of the System. Such payments are not secured by an obligation or pledge of any moneys raised by taxation; the Obligations do not represent or constitute a debt or pledge of the general credit of the City or the State of Arizona and the Purchase Agreement, including the obligation of the City to make the payments required thereunder, does not represent or constitute a debt or pledge of the general credit of the City. As described in the Purchase Agreement, so long as Bonds are Outstanding under the Master Bond Resolution, the Obligations shall be junior in lien to the Bonds, as permitted by the Master Bond Resolution. Additional obligations may be executed and delivered in the future on a parity with the Obligations with respect to the lien on the Pledged Revenues.

3. Based on the representations and covenants of the City and subject to the assumption stated in the last sentence of this paragraph, under existing statutes, regulations, rulings and court decisions, the portion of each installment purchase payment made by the City pursuant to the Purchase Agreement, denominated as and comprising interest with respect to the Obligations and received by the beneficial owners of the Obligations (the “Interest Portion”), is excludable from the gross income of the owners thereof for federal income tax purposes and is not treated as an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals. In the case of the alternative minimum tax imposed by Section 55(b)(2) of the Internal Revenue Code of 1986, as amended (the “Code”), on applicable corporations (as defined in Section 59(k) of the Code), the Interest Portion is not excluded from the determination of adjusted financial statement income for tax years beginning after 2022. We express no opinion regarding other federal tax consequences resulting from the receipt or accrual of the Interest Portion on, or ownership or disposition of, the Obligations. The Internal Revenue Code of 1986, as amended (the “Code”), includes requirements which the City must continue to meet after the execution and delivery of the Obligations in order that the Interest Portion not be included in gross income for federal income tax purposes. The failure of the City to meet these requirements may cause the Interest Portion to be included in gross income for federal income tax purposes retroactive to the date of execution and delivery of the Obligations. The City has covenanted in the Purchase Agreement to take the actions required by the Code in order to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion. (Subject to the same limitations in the first numbered paragraph hereof as they would relate to such covenants, the City has full legal power and authority to comply with such covenants.) In rendering the opinion expressed in this paragraph, we have assumed continuing compliance with the tax covenants referred to hereinabove that must be met after the execution and delivery of the Obligations in order that the Interest Portion not be included in gross income for federal tax purposes.

4. Assuming the Interest Portion is so excludable for federal income tax purposes, the Interest Portion is exempt from income taxation under the laws of the State of Arizona. We express no opinion regarding other state tax consequences resulting from the receipt or accrual of the interest on, or ownership or disposition of, the Obligations.

This opinion represents our legal judgment based upon our review of the law and the facts we deem relevant to render such opinion and is not a guarantee of a result. This opinion is given as of the date hereof, and we assume no obligation to review or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

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## **APPENDIX I**

### **FORM OF CONTINUING DISCLOSURE UNDERTAKING**



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CITY OF MESA, ARIZONA

\$192,170,000\*  
UTILITY SYSTEMS  
REVENUE OBLIGATIONS,  
SERIES 2023

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CONTINUING DISCLOSURE UNDERTAKING

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This Continuing Disclosure Undertaking (this “*Undertaking*”) is executed and delivered by the City of Mesa, Arizona (the “*City*”), in connection with the execution and delivery of \$192,170,000\* principal amount of Utility Systems Revenue Obligations, Series 2023 (the “*Obligations*”), executed and delivered pursuant to the Trust Agreement, dated as of December 1, 2023\* (the “*Trust Agreement*”), by and between the City and UMB Bank, n.a., as trustee (the “*Trustee*”). The City covenants and agrees as follows:

1. **Definitions.** In addition to those defined hereinabove, the terms set forth below shall have the following meanings in this Undertaking, unless the context clearly otherwise requires:

“*Annual Financial Information*” means the financial information and operating data set forth in Exhibit I.

“*Annual Financial Information Disclosure*” means the dissemination of disclosure concerning Annual Financial Information and the dissemination of the Audited Financial Statements as set forth in Section 4.

“*Audited Financial Statements*” means the audited financial statements of the City prepared pursuant to the standards and as described in Exhibit I.

“*Commission*” means the Securities and Exchange Commission.

“*Dissemination Agent*” means any agent designated as such in writing by the City and which has filed with the City a written acceptance of such designation, and such agent’s successors and assigns.

“*EMMA*” means the Electronic Municipal Market Access system of the MSRB. Information regarding submissions to EMMA is available at <http://emma.msrb.org>.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Final Official Statement*” means the Final Official Statement relating to the Obligations, dated \_\_\_\_\_, 2023.

“*Financial Obligation*” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) a guarantee of (i) or (ii). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“*GAAP*” means generally accepted accounting principles, as applied to governmental units as modified by the laws of the State.

“*Listed Event*” means the events set forth in Exhibit II.

“*Listed Events Disclosure*” means dissemination of disclosure concerning a Listed Event as set forth in Section 5.

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Participating Underwriter*” means each broker, dealer or municipal securities dealer acting as an underwriter in the primary offering of the Obligations.

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\* Subject to change.

“Purchase Agreement” means the Installment Purchase Agreement dated as of \_\_\_\_\_ 1, 2023, by and between the City and the Trustee, in its separate capacity as “Seller.”

“Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Exchange Act.

“State” means the State of Arizona.

2. Purpose of this Undertaking. This Undertaking is executed and delivered by the City as of the date set forth below, for the benefit of the beneficial owners of the Obligations and in order to assist the Participating Underwriter in complying with the requirements of the Rule. The City represents that it will be the only obligated person with respect to the Obligations at the time the Obligations are delivered to the Participating Underwriter and that no other person is expected to become so committed at any time after such delivery of the Obligations.

3. CUSIP Number. The CUSIP Numbers of the Obligations are as follows:

CUSIP No. (Base 590545)	Maturity Date (July 1)
_____	_____

4. Annual Financial Information Disclosure. Subject to Section 8 of this Undertaking, the City shall disseminate its Annual Financial Information and its Audited Financial Statements, if any (in the form and by the dates set forth in Exhibit I), through EMMA.

If any part of the Annual Financial Information can no longer be generated because the operations to which it is related have been materially changed or discontinued, the City will disseminate a statement to such effect as part of its Annual Financial Information for the year in which such event first occurs.

If any amendment is made to this Undertaking, the Annual Financial Information for the year in which such amendment is made shall contain a narrative description of the reasons for such amendment and its impact on the type of information being provided.

5. Listed Events Disclosure. Subject to Section 8 of this Undertaking, the City shall disseminate in a timely manner, but in not more than ten (10) business days after the occurrence of the event, its Listed Events Disclosure through EMMA. Whether events subject to the standard “material” would be material shall be determined under applicable federal securities laws.

6. Consequences of Failure of the City to Provide Information. The City shall give notice in a timely manner through EMMA of any failure to provide Annual Financial Information Disclosure when the same is due hereunder.

In the event of a failure of the City to comply with any provision of this Undertaking, the beneficial owner of any Obligation may seek mandamus or specific performance by court order, to cause the City to comply with its obligations under this Undertaking. A default under this Undertaking shall not be deemed an event of default under the Purchase Agreement or the Trust Agreement, and the sole remedy available to such owners of the Obligations under this Undertaking in the event of any failure of the City to comply with this Undertaking shall be an action to compel performance.

7. Amendments; Waiver. Notwithstanding any other provision of this Undertaking, the City by certified resolution or ordinance authorizing such amendment or waiver, may amend this Undertaking, and any provision of this Undertaking may be waived only if:

(a) The amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City, or type of business conducted;

(b) This Undertaking, as amended or affected by such waiver, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver does not materially impair the interests of the beneficial owners of the Obligations, as determined by parties unaffiliated with the City (such as the Trustee) or by approving vote of the owners of the Obligations pursuant to the Trust Agreement at the time of the amendment.

The Annual Financial Information containing amended operating data or financial information resulting from such amendment or waiver, if any, shall explain, in narrative form, the reasons for the amendment or waiver and the impact of the change in the type of operating data or financial information being provided. If an amendment or waiver is made specifying GAAP to be followed in preparing financial statements and such changes are material, the Annual Financial Information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles. Such comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles in the presentation of the financial information in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, such comparison also shall be quantitative. If the accounting principles of the City change or the fiscal year of the City changes, the City shall file a notice of such change in the same manner as for a notice of Listed Event.

8. Undertaking Payable from Pledged Revenues. The City's undertaking to provide information under this Undertaking is payable solely from Pledged Revenues of the System (as such terms are defined in the Final Official Statement) to cover the costs of preparing and sending the Annual Financial Information Disclosure and Listed Events Disclosure. Until payment of all Bonds under the Master Resolution (as such terms are defined in the Final Official Statement), no receipts segregated or collected for the purpose of paying the principal of and interest and redemption charges on bonds and other lawful long-term obligations issued or incurred for a specific capital purpose shall be subject to the provisions of Arizona Revised Statutes, Title 42, Chapter 17.

9. Termination of Undertaking. This Undertaking shall be terminated hereunder if the City shall no longer have liability for any obligation on or relating to repayment of the Obligations under the Trust Agreement.

10. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Undertaking, and may discharge any such Agent, with or without appointing a successor Dissemination Agent.

11. Additional Information. Nothing in this Undertaking shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Undertaking or any other means of communication, or including any other information in any Annual Financial Information Disclosure or notice of occurrence of a Listed Event, in addition to that which is required by this Undertaking. If the City chooses to include any information from any document or notice of occurrence of a Listed Event in addition to that which is specifically required by this Undertaking, the City shall have no obligation under this Undertaking to update such information or include it in any future Annual Financial Information Disclosure or Listed Events Disclosure.

12. Beneficiaries. This Undertaking has been executed in order to assist the Participating Underwriter in complying with the Rule; however, this Undertaking shall inure solely to the benefit of the City, the Dissemination Agent, if any, and the beneficial owners of the Obligations, and shall create no rights in any other person or entity.

13. Recordkeeping. The City shall maintain records of all Annual Financial Information Disclosure and Listed Events Disclosure including the content of such disclosure, the names of the entities with whom such disclosure was filed and the date of filing such disclosure.

14. Assignment. The City shall not transfer its obligations under the Purchase Agreement unless the transferee agrees to assume all obligations of the City under this Undertaking or to execute an undertaking meeting the requirements of the Rule.

15. Governing Law. This Undertaking shall be governed by the laws of the State.

[Signature page follows.]

DATED: \_\_\_\_\_, 2023

CITY OF MESA, ARIZONA

By .....  
Deputy City Manager and Chief Financial Officer

[Signature page to Continuing Disclosure Undertaking]

**EXHIBIT I**

**ANNUAL FINANCIAL INFORMATION AND TIMING AND  
AUDITED FINANCIAL STATEMENTS**

“Annual Financial Information” means financial information and operating data of the type contained in the following table of the Final Official Statement:

- a. Combined Schedules of Revenues and Debt Service Coverage (audited information only)
- b. Appendix B – Financial Data – Statements of Bonds Outstanding

All or a portion of the Annual Financial Information and the Audited Financial Statements as set forth below may be included by reference to other documents which have been submitted through EMMA or filed with the Commission. If the information included by reference is contained in a final official statement, the final official statement must be available from the MSRB. The City shall clearly identify each such item of information included by reference.

Annual Financial Information exclusive of Audited Financial Statements will be provided through EMMA by February 1 of each year, commencing February 1, 2024. Audited Financial Statements as described below should be filed at the same time as the Annual Financial Information. If Audited Financial Statements are not available when the Annual Financial Information is filed, unaudited financial statements shall be included, to be followed up by Audited Financial Statements within 30 days after availability to the City.

Audited Financial Statements will be prepared according to GAAP.

If any change is made to the Annual Financial Information as permitted by Section 4 of this Undertaking, the City will disseminate a notice of such change as required by Section 4, including changes in fiscal year or GAAP.

## EXHIBIT II

### EVENTS FOR WHICH LISTED EVENTS DISCLOSURE IS REQUIRED

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations, in each case, with respect to the tax status of the security, or other material events affecting the tax status of the security.
7. Modifications to the rights of security holders, if material.
8. Bond calls, if material, or tender offers.
9. Defeasances.
10. Release, substitution or sale of property securing repayment of the securities, if material.
11. Rating changes.
12. Bankruptcy, insolvency, receivership or similar events of the City, being if any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under State or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.
13. The consummation of a merger, consolidation or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.
15. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material.
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.



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**SPECIMEN MUNICIPAL BOND INSURANCE POLICY**

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