
INSTALLMENT PURCHASE AGREEMENT

by and between

UMB BANK, N.A.,
as Seller

and

CITY OF MESA, ARIZONA,
as Purchaser

Dated as of _____ 1, 2021

The rights of UMB Bank, n.a., in its separate capacity as seller hereunder, have been assigned to UMB Bank, n.a., in its separate capacity as trustee under a Trust Agreement, dated as of _____ 1, 2021

(This Table of Contents is for informational purposes only and is not to be considered a part of this Installment Purchase Agreement)

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Authorized Signatures..... Signature Page to Installment Purchase Agreement

Exhibit A	–	Description of Series 2021 Projects
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INSTALLMENT PURCHASE AGREEMENT

This INSTALLMENT PURCHASE AGREEMENT, dated as of ____ 1, 2021 (this “*Purchase Agreement*”), by and between UMB BANK, N.A., a national association authorized to do trust business in the United States of America including in the State of Arizona, as trustee but in its separate capacity as seller (the “*Seller*”), and CITY OF MESA, ARIZONA, a municipal corporation of the State of Arizona, as purchaser (the “*City*”),

WITNESSETH:

WHEREAS, pursuant to Resolution No. ____ adopted by the City Council of the City on ____, 2021, it was found and determined to be advantageous and in the public interest that the Series 2021 Obligations (as defined herein) be sold, executed and delivered; and

WHEREAS, pursuant to this Purchase Agreement, the City has agreed to purchase the Series 2021 Projects (as defined herein) from the Seller;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

The words and terms used herein shall have the respective meanings assigned to them in the Trust Agreement (as defined herein). In addition, the following words and terms as used herein shall have the meaning indicated, unless the context or use requires a different meaning or intent. All accounting terms not otherwise so defined shall have the meanings assigned to them in accordance with generally accepted accounting principles.

“*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 this Purchase Agreement, and (ii) for the purpose of acquiring, constructing or improving the System or to refund the Series 2021 Obligations, Additional Obligations or Bonds.

“*Assumed Interest Rate*” means an interest rate for a series of Variable Rate Obligations at the computation date computed to be the lesser of (i) the maximum rate that the Variable 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.

“*City Series 2021 Obligations Fund*” means the fund of that name created pursuant to Section 3.3(a).

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

“*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) enhancing credit of the City securing the Series 2021 Obligations or Additional Obligations by assuring that principal of and interest on the Series 2021 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) providing 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.

“*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.

“*Interest Requirement*” means (i) with respect to this Purchase Agreement, as of any date of calculation, the interest amount on this Purchase Agreement due during the then-current Bond Year, and (ii) 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 Rate Obligations Outstanding or proposed to be incurred, the Interest Requirement shall be computed with the Assumed Interest Rate.

“*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.

“*Operating Expenses*” means the reasonable and necessary costs of operation, maintenance and repair of the System, including salaries, wages, cost of materials, supplies, commodities, insurance, and accumulations to cover periodic payment of 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 particularly, but not by way of limitation, depreciation or loss on disposal or transfer of assets, (ii) the Principal Requirement and the Interest Requirement on the Series 2021 Obligations and any Additional Obligations, (iii) payments required to be made by the City pursuant to Section 3.3(b)(iv) hereof or similar provisions with respect to any

documents authorizing Additional Obligations for deposit into the Debt Service Reserve Account or a debt service reserve account with respect to Additional Obligations, and (iv) the Rebate Requirement determined pursuant to Section 2.4 hereof and any payments required to be made to satisfy the rebate requirements of Section 148(f) of the Code with respect to any Additional Obligations.

“Outstanding” when used with reference to Additional Obligations, shall have the meaning assigned to such term in the corresponding, applicable Additional Obligation Documents, which shall be as similar as possible to such definition in the Trust Agreement.

“Parity Lien Test Debt Service” means the highest aggregate Principal Requirement and Interest Requirement of all Outstanding Series 2021 Obligations and Additional Obligations to fall due and payable in the current or any future Bond Year.

“Pledged Revenues” means Revenues remaining after deducting the Operating Expenses. For the purposes of the computation required by Sections 4.4, 5.3(b) and 5.3(c), 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 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.

“Principal Requirement” means (i) with respect to this Purchase Agreement, as of any date of calculation, the principal amount of the Series 2021 Obligations maturing or subject to mandatory redemption pursuant to the Trust Agreement during the then-current Bond Year, and (ii) with respect to 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 the Additional Obligations. In computing the Principal Requirement for such Additional Obligations, an amount of such Additional Obligations 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 Additional Obligations maturing on the scheduled maturity date. In the case of Additional Obligations supported by a Credit Facility, the Principal Requirement for such Additional Obligations shall be determined in accordance with the principal retirement schedule specified in the Additional Obligation Documents authorizing the incurrence of such Additional Obligations, rather than any amortization schedule set forth in such Credit Facility unless payments under such Additional Obligations shall be in default at the time of the determination, in which case the Principal Requirements for such 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.

“Purchase Price” means the sum of the payments paid pursuant to Section 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 2021 Projects.

“Rating Category” means one of the general rating categories of a Rating Agency without regard to any refinement or gradation of such rating category by numerical modifier or otherwise.

“Regulations” means sections 1.148-1 through 1.148-11 and section 1.150-1 of the regulations of the United States Department of the Treasury promulgated under the Code, including and any amendments thereto or successor regulations.

“Repair and Replacement Fund” means the fund of that name created pursuant to Section 5.1(b).

“Repair and Replacement Fund Funding Requirement” means an amount equal to two percent of the value 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.

“Revenues” means and includes 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 Series 2021 Obligations or any Additional Obligations or the interest received on any proceeds of Additional Obligations placed irrevocably in trust to pay, or provide for the payment of, any Series 2021 Obligations or Additional Obligations, or (iii) any non-cash capital contributions received by the City for the use and operation of the System.

“Series 2021 Continuing Disclosure Certificate” means the Continuing Disclosure Certificate, dated [Closing Date], from the City.

“Series 2021 Obligations” means the City of Mesa, Arizona, Utility Systems Revenue Obligations, Series 2021, 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 _____ 1, 2021, evidencing a proportionate interest in certain rights pursuant to this Purchase Agreement, including the right to receive payment of the Purchase Price.

“Series 2021 Projects” means, in the aggregate, the improvements described on Exhibit A attached to this Purchase Agreement and incorporated by reference in this Purchase Agreement, as amended from time to time.

“System” means the complete water, electrical, natural gas, wastewater and solid waste (garbage and rubbish) systems of the City including all such properties of every nature hereafter owned by the City and all acquisitions, improvements and extensions added thereto by the City,

including all real and personal property of every nature comprising part of, or used or useful in connection with, such system, and including all appurtenances, contracts, leases, franchises, and other intangibles.

“*Tax Certificate*” means the Federal Tax Exemption Certificate of the City, dated [Closing Date], delivered by the City with respect to the Series 2021 Obligations.

“*Trust Agreement*” means the Trust Agreement, dated as of _____ 1, 2021, by and between the Trustee and the City, as supplemented from time to time.

“*Variable 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.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; references to an “Article” or a “Section” are to those of this Purchase Agreement; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Purchase Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of this Purchase Agreement. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise. The captions and headings in this Purchase Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

ARTICLE II

EXECUTION AND DELIVERY OF SERIES 2021 OBLIGATIONS; APPLICATION OF PROCEEDS; IMPROVEMENTS FUND; FEDERAL LAW COVENANTS

Section 2.1 Agreement to Cause Execution and Delivery of Series 2021 Obligations; Application of Proceeds. In order to provide funds for payment of (i) the costs and expenses of the Series 2021 Projects and (ii) the Delivery Costs pertaining to the Series 2021 Obligations, the Series 2021 Obligations shall be executed and delivered pursuant to the Trust Agreement. Capital expenditures relating to the Series 2021 Projects advanced prior to the execution and delivery of the Series 2021 Obligations shall be reimbursed, and the costs of the Series 2021 Projects, including but not limited to the Delivery Costs pertaining to the Series 2021 Obligations, shall be paid, in each case as provided in Section 2.2.

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 Series 2021 Obligations transferred to the City by the Trustee pursuant to Section 5.2 of 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, construction and improvement of the Series 2021 Projects, and all real and personal property deemed necessary by the City, in its sole discretion, in connection therewith 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 2021 Projects advanced prior to the execution and delivery of the Series 2021 Obligations; and

(iv) payment of the portion of the Purchase Price representing interest on the Series 2021 Obligations during the acquisition, construction and improvement of the Series 2021 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 2021 Projects and (iii) each item for which payment is proposed to be made is for a purpose permitted by this Section.

(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.

(d) The City shall notify the Trustee of the completion date of the Series 2021 Projects by delivery of a certificate signed by the City Representative stating that (i) the Series 2021 Projects have been completed and (ii) all disbursements under Section 2.2(a) have been made, except for amounts retained by the City for payment of costs of the Series 2021 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 2021 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 2.3 General Federal Tax Covenants.

(a) As provided in further detail in the Tax Certificate, the City shall not make or direct the making of any investment or other use of the proceeds of any of the Series 2021 Obligations or the Series 2021 Projects that would cause such Series 2021 Obligations to be “arbitrage bonds” as that term is defined in section 148 of the Code or “private activity bonds” as that term is defined in section 141 of the Code and shall comply with the requirements of such sections of the Code and the related Regulations throughout the term of the Series 2021 Obligations. Particularly, the City shall be the owner of the Series 2021 Projects for federal income tax purposes. The City shall not enter into (i) any management or service contract with any entity other than a governmental entity for the operation of any portion of the Series 2021 Projects unless the management or service contract complies with the requirements of Revenue Procedure 97-13, Revenue Procedure 2016-44, Revenue Procedure 2017-13, or such other authority as may control at the time or (ii) any lease or other arrangement with any entity other

than a governmental entity that gives such entity special legal entitlements with respect to any portion of the Series 2021 Projects. Also, the payment of principal and interest with respect to the Series 2021 Obligations shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Series 2021 Obligations, or amounts treated as proceeds of the Series 2021 Obligations, shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds (i) may be so invested for an initial temporary period until needed for the purpose for which the Series 2021 Obligations are being executed and delivered, (ii) may be so used in making investments of a *bona fide* debt service fund or (iii) may be invested in obligations issued by the United States Treasury.

(b) The City shall comply with the procedures and covenants contained in any arbitrage rebate provision (initially, Section 2.4) or separate agreement executed in connection with the issuance of the Series 2021 Obligations for so long as compliance is necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Series 2021 Obligations. In consideration of the purchase and acceptance of the Series 2021 Obligations by the Holders thereof from time to time and of retaining such exclusion and as authorized by Title 35, Chapter 3, Article 7, Arizona Revised Statutes, as amended, the City covenants, and the appropriate officials of the City are hereby directed, to take all action required by the Code to preserve such exclusion or to refrain from taking any action prohibited by the Code which would adversely affect in any respect such exclusion.

(c) (i) The City shall take all necessary and desirable steps to comply with the requirements hereunder in order to ensure that interest on the Series 2021 Obligations is excluded from gross income for federal income tax purposes under the Code; provided, however, compliance with any such requirement shall not be required in the event the City receives a Special Counsel's Opinion that either (A) compliance with such requirement is not required to maintain the exclusion from gross income of interest on the Series 2021 Obligations, or (B) compliance with some other requirement will meet the requirements of the Code. In the event the City receives such a Special Counsel's Opinion, this Purchase Agreement shall be amended to conform to the requirements set forth in such opinion.

(ii) If for any reason any requirement hereunder is not complied with, the City shall take all necessary and desirable steps to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence and the City shall pay any required interest or penalty under Regulations section 1.148-3(h).

(d) Written procedures have been established for the City to ensure that all nonqualified obligations are remediated according to the requirements under the Code and related Regulations and to monitor the requirements of section 148 of the Code relating to arbitrage, with which the City will comply.

Section 2.4 Arbitrage Rebate Covenants.

(a) Terms used in subsection (b) and not otherwise defined in Article I or in subsection (b) shall have the meanings given to them in the Code and the Regulations.

(b) For purposes of this Section, the following terms shall have the following meanings:

“*Bond Year*” shall have the meaning provided above, except that for purposes of this Section the first Bond Year shall begin on the date of issue of the Series 2021 Obligations and shall end on July 1, 2021, and the last Bond Year shall end on the date of retirement of the last Series 2021 Obligations.

“*Bond Yield*” is as indicated in the Tax Certificate and means the discount rate that produces a present value equal to the Issue Price of all unconditionally payable payments of principal, interest and fees for qualified guarantees within the meaning of Regulations section 1.148-4(f) and amounts reasonably expected to be paid as fees for qualified guarantees in connection with the Series 2021 Obligations as determined under Regulations section 1.148-4(b). The present value of all such payments shall be computed as of the date of issue of the Series 2021 Obligations and using semiannual compounding on the basis of a 360-day year. Bond Yield shall be recomputed if required by Regulations section 1.148-4(b)(4) or 4(h)(3).

“*Gross Proceeds*” means:

(i) any amounts actually or constructively received by the City from the sale of the Series 2021 Obligations;

(ii) transferred proceeds of the Series 2021 Obligations under Regulations section 1.148-9;

(iii) any amounts actually or constructively received from investing amounts described in (i), (ii) or this (iii) and

(iv) replacement proceeds of the Series 2021 Obligations within the meaning of Regulations section 1.148-1(c). Replacement proceeds include amounts reasonably expected to be used directly or indirectly to pay debt service on the Series 2021 Obligations, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Series 2021 Obligations in the event the City encounters financial difficulties and other replacement proceeds within the meaning of Regulations section 1.148-1(c)(4). Whether an amount is Gross Proceeds is determined without regard to whether the amount is held in any fund or account established under the Trust Agreement.

“*Investment Property*” means any security, obligation (other than a tax-exempt bond within the meaning of Code section 148(b)(3)(A)), annuity contract or investment-type property within the meaning of Regulations section 1.148-1(b).

“*Issue Price*” is as indicated in the Tax Certificate and shall be determined as provided in Regulations section 1.148-1(b).

“*Nonpurpose Investment*” means any Investment Property acquired with Gross Proceeds, and that is not acquired to carry out the governmental purposes of the Series 2021 Obligations.

“*Payment*” means any payment within the meaning of Regulations section 1.148-3(d)(1) with respect to a Nonpurpose Investment.

“*Rebate Requirement*” means at any time the excess of the future value of all Receipts over the future value of all Payments. For purposes of calculating the Rebate Requirement the Bond Yield shall be used to determine the future value of Receipts and Payments in accordance with Regulations section 1.148-3(c). The Rebate Requirement is zero for any Nonpurpose Investment meeting the requirements of a rebate exception under section 148(f)(4) of the Code or Regulations section 1.148-7.

“*Receipt*” means any receipt within the meaning of Regulations section 1.148-3(d)(2) with respect to a Nonpurpose Investment.

(c) Within 60 days after the end of each Bond Year, unless an exemption from the requirement to do so is provided by the Code and the Regulations, the City shall cause the Rebate Requirement to be calculated and shall pay to the United States of America:

(i) not later than 60 days after the end of the fifth Bond Year and every fifth Bond Year thereafter, an amount that, when added to the future value of all previous rebate payments with respect to the Series 2021 Obligations (determined as of such Computation Date), is equal to at least 90 percent of the sum of the Rebate Requirement (determined as of the last day of such Bond Year) plus the future value of all previous rebate payments with respect to the Series 2021 Obligations (determined as of the last day of such Bond Year) and

(ii) not later than 60 days after the retirement of the last Series 2021 Obligation, an amount equal to 100 percent of the Rebate Requirement (determined as of the date of retirement of the last Series 2021 Obligation).

Each payment required to be made under this Section shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201 (or at such other address then specified by the Internal Revenue Service), on or before the date such payment is due, and shall be accompanied by IRS Form 8038-T.

(d) No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

(e) For purposes of subsection (d), whether a Nonpurpose Investment has been purchased or sold or disposed of for its fair market value shall be determined as follows:

(i) The fair market value of a Nonpurpose Investment generally shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in a bona fide arm's length transaction. Fair market value shall be determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding.

(ii) Except as provided in subsection (f) or (g), a Nonpurpose Investment that is not of a type traded on an established securities market, within the meaning of Code section 1273, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(iii) If a United States Treasury obligation is acquired directly from or sold or disposed of directly to the United States Treasury, such acquisition or sale or disposition shall be treated as establishing the fair market value of the obligation.

(f) The purchase price of a certificate of deposit that has a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal is considered to be its fair market value if the yield on the certificate of deposit is not less than:

(i) the yield on reasonably comparable direct obligations of the United States and

(ii) the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(g) A guaranteed investment contract shall be considered acquired and disposed of for an amount equal to its fair market value if:

(i) A bona fide solicitation in writing for a specified guaranteed investment contract, including all material terms, is timely forwarded to all potential providers. The solicitation must include a statement that the submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the City or any other person (whether or not in connection with the Series 2021 Obligations), and that the bid is not being submitted solely as a courtesy to the City or any other person for purposes of satisfying the requirements in the Regulations that the City receive bids from at least one reasonably competitive provider and at least three providers that do not have a material financial interest in the Series 2021 Obligations.

(ii) All potential providers have an equal opportunity to bid, with no potential provider having the opportunity to review other bids before providing a bid.

(iii) At least three reasonably competitive providers (i.e. having an established industry reputation as a competitive provider of the type of investments being purchased) are solicited for bids. At least three bids must be received from providers that have no material financial interest in the Series 2021 Obligations (e.g., a lead underwriter

within 15 days of the issue date of the Series 2021 Obligations or a financial advisor with respect to the investment) and at least one of such three bids must be from a reasonably competitive provider. If the City uses an agent to conduct the bidding, the agent may not bid.

(iv) The highest-yielding guaranteed investment contract for which a qualifying bid is made (determined net of broker's fees) is purchased.

(v) The determination of the terms of the guaranteed investment contract takes into account as a significant factor the reasonably expected deposit and drawdown schedule for the amounts to be invested.

(vi) The terms for the guaranteed investment contract are commercially reasonable (i.e. have a legitimate business purpose other than to increase the purchase price or reduce the yield of the guaranteed investment contract).

(vii) The provider of the investment contract certifies the administrative costs (as defined in Regulations section 1.148-5(e)) that it pays (or expects to pay) to third parties in connection with the guaranteed investment contract.

(viii) The City retains until three years after the last Outstanding Series 2021 Obligation is retired, (A) a copy of the guaranteed investment contract, (B) a receipt or other record of the amount actually paid for the guaranteed investment contract, including any administrative costs paid by the City and a copy of the provider's certification described in (vii) above, (C) the name of the person and entity submitting each bid, the time and date of the bid, and the bid results and (D) the bid solicitation form and, if the terms of the guaranteed investment contract deviates from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation.

(h) Such experts and consultants shall be employed to make, as necessary, any calculations in respect of rebates to be made to the United States of America in accordance with section 148(f) of the Code with respect to the Series 2021 Obligations.

Section 2.5 Continuing Disclosure Certificate. The City shall comply with and carry out all of the provisions of the Series 2021 Continuing Disclosure Certificate. Notwithstanding any other provision of this Purchase Agreement, failure of the City to comply with the Series 2021 Continuing Disclosure Certificate shall not be considered a Purchase Event of Default, a Trust Agreement Event of Default or other event of default; however, the Trustee (at the request of the registered Holders or beneficial owners of at least 25 percent aggregate principal amount in Outstanding Series 2021 Obligations and receipt of indemnity to its satisfaction) shall take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section.

ARTICLE III AGREEMENT OF SALE; PURCHASE PRICE

Section 3.1 Agreement of Sale. In exchange for financing the costs and expenses of the Series 2021 Projects, the City hereby sells and conveys any interests it has in the Series 2021 Projects to the Seller, without warranty, for the sum of \$10.00 and other valuable consideration had and received. For the amounts payable pursuant hereto (including the Purchase Price), the Seller sells and conveys to the City, without warranty, and the City purchases from the Seller, the Series 2021 Projects, inclusive of the value added to the System by the acquisition of the Series 2021 Projects. In order to evidence such sale and conveyance, the Seller has executed and delivered to the City a bill of sale in substantially the form of Exhibit B attached hereto and incorporated herein by reference.

Section 3.2 Possession of and Title to Series 2021 Projects; Authority of Seller to Pledge Its Interests.

(a) The City shall be entitled to possession of, and full and unencumbered title to, the Series 2021 Projects, without suit, trouble or hindrance from the Seller. The Series 2021 Projects shall be made a part of the System.

(b) The Seller may mortgage, hypothecate or pledge all or any part of the interest of the Seller only as set forth in this Purchase Agreement as security for the Series 2021 Obligations.

Section 3.3 City Series 2021 Obligations Fund; Amounts Payable After Execution and Delivery of Series 2021 Obligations Including for Purchase Price.

(a) Upon the execution and delivery of the Series 2021 Obligations, the City shall establish and maintain a separate, internal fund titled the “*City Series 2021 Obligations Fund*,” which the City shall hold in trust for the Holders of the Series 2021 Obligations. On or before the tenth (10th) day of each month, the City shall transfer Pledged Revenues received pursuant to Section 4.1 into the City Series 2021 Obligations Fund as follows:

(i) Commencing [July] 10, 2021, [one-sixth (1/6)] of the interest on the Series 2021 Obligations due on the [January] 1, 20[22] Obligation Payment Date, and thereafter, one-sixth (1/6) of the interest on the Series 2021 Obligations coming 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 July 10, 2021, one-twelfth (1/12) of the principal due (whether because of maturity or mandatory prepayment) 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 any amounts due pursuant to Section 2.4(c), the Pledged Revenues received pursuant to Section 4.1 (whether held by the City in the City Series 2021 Obligations Fund or otherwise; or, if sufficient amounts are not available therefrom, amounts withdrawn from the Debt Service Reserve Account or the Repair and Replacement Fund) 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 Series 2021 Obligations falling due on the next succeeding Obligation Payment Date for deposit to the Interest Account created by the Trustee under the Trust Agreement (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 Series 2021 Obligations due or subject to mandatory redemption on the next succeeding Obligation Payment Date for deposit to the Principal Account created by the Trustee under the Trust Agreement (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 Series 2021 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 Series 2021 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 [July] 10, 2021, and on the tenth (10th) day of the month thereafter, the City shall deposit to the Repair and Replacement Fund 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 Series 2021 Obligations, from the date said payment was to be made to the date of payment by the City until paid. This 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 herein. 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 this Purchase Agreement.

Section 3.4 Obligations of City Unconditional. The obligations of the City to make the payments from Pledged Revenues required in Section 3.3 and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, regardless of the continued existence or physical condition of the Series 2021 Projects. The City (a) shall not diminish, suspend or discontinue any payments provided for in Section 3.3, (b) shall perform and observe all of its other agreements contained in this Purchase Agreement and (c) shall not terminate this Purchase Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, loss, theft or destruction of or damage to the Series 2021 Projects, or any part thereof, frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Purchase Agreement. Nothing contained in this Section shall be construed to release the Seller from the performance of any of the agreements on its part herein contained, and in the event the Seller shall fail to perform any such agreement on its part, the City may institute such action against the Seller as the City may deem necessary to compel performance or recover its damages for non-performance so long as such action shall not violate or impair the effectiveness of the agreements on the part of the City contained in the next two preceding sentences. The City may, however, at its own cost and expense and in its own name or in the name of the Seller, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect its rights of ownership, possession and use hereunder, and in such event the Seller hereby agrees to cooperate fully with the City and to take all action necessary to effect the substitution of the City for the Seller in any such action or proceeding if the City shall so request.

Section 3.5 Termination of Payment of Purchase Price; Excess Payments.

(a) Subject to Article VI, upon full payment or provision for payment of the Purchase Price and provided that the City has performed all the covenants and agreements required by the City to be performed hereunder, this Purchase Agreement shall cease and expire. Upon the expiration of this Purchase Agreement, the Seller shall cause the Trustee under the Trust Agreement to release any interest that the Trustee may have in the Pledged Revenues from the lien of the Trust Agreement.

(b) In the event of prepayment of the Purchase Price in full or provision for the payment thereof in full such that the Trust Agreement shall be discharged by its terms as a result of such prepayment and payment of any fees and charges due and owing to the Trustee, all amounts then on deposit in the Improvements Fund (except for amounts retained by the City for payment of costs of the Series 2021 Projects not yet due and payable in accordance with Section 2.2(c)) and the Obligations Fund shall be credited toward the amounts then required to be so prepaid at the direction of the City Representative. Upon the payment thereof in accordance with the Trust Agreement such that the Trust Agreement shall be discharged by its terms, any money remaining which is not otherwise required to be applied to the payment of debt service on the Series 2021 Obligations or to the payment of any other amounts due under the Trust Agreement shall be paid over to the City.

Section 3.6 Prepayment of Purchase Price Generally. The City shall be permitted to prepay all or a part of the Purchase Price composed of the principal and interest components thereof to the extent and in the manner permitted by the Trust Agreement for the redemption of the Series 2021 Obligations. If such prepayment is made in compliance with the terms of the Trust Agreement, the Seller shall cause the Trustee under the Trust Agreement to accept such prepayment to the extent required to provide for a permitted redemption or provision for payment of such Series 2021 Obligations as shall be directed by the City. No other prepayment of the Purchase Price shall be permitted.

Section 3.7 Effect of Partial Payment or Prepayment. Upon any partial payment or prepayment of the Purchase Price resulting in a redemption of Series 2021 Obligations, each installment of interest which shall thereafter be payable as a part of the Purchase Price shall be reduced, taking into account the interest rate or rates on the Series 2021 Obligations remaining outstanding after the redemption of Series 2021 Obligations from the proceeds of such partial payment or prepayment so that the interest remaining payable as a part of the Purchase Price shall be sufficient to pay the interest on such outstanding Series 2021 Obligations when due.

ARTICLE IV SOURCE OF PURCHASE PRICE; RATE COVENANT; ADDITIONAL OBLIGATIONS

Section 4.1 Limitation of Source of City Payments.

(a) This 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 hereof.

(b) All amounts to be paid by the City pursuant to Section 3.3 (or under any other section of this 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 this Purchase Agreement from such other moneys constitute a pledge thereof, and amounts payable by the City under this 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 hereby pledges, and shall raise and apply, the Pledged Revenues in such amounts and in such manner as required herein to make the payments required to be made by the City under this 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 any 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 herein to incur this 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 hereunder or under the Trust Agreement. After the application of the Pledged Revenues for the purposes in this Purchase Agreement, they may be used for any lawful purpose.

Section 4.2 Rate Covenant. The City shall continuously control, operate and maintain the System and shall establish and maintain rates, fees and other charges for all services supplied by the System to provide the Revenues fully sufficient at all times, after making reasonable allowance for contingencies and errors in estimates, to pay all Operating Expenses and to produce (a) the Pledged Revenues in each Fiscal Year equal to at least 120 percent of the Principal Requirement and the Interest Requirement on all Outstanding Series 2021 Obligations and Outstanding Additional Obligations for the corresponding Bond Year (treating the Variable Interest Rate Obligations as bearing interest at the Assumed Interest Rate and Outstanding Additional Obligations 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 required to be deposited to the Obligation Fund during such Fiscal Year, will be sufficient to provide at least 100 percent of the amounts with regard to any Credit Facility due and owing in such Fiscal Year.

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 this Purchase Agreement.

Section 4.4 Additional Obligations Generally. Additional Obligations may be incurred if there shall not be 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 120 percent of the Parity Lien Test Debt Service including such Additional Obligations 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 Obligation Fund during such Fiscal Year, will be sufficient to provide at least 100 percent of the amounts with regard to any Credit Facility due and owing in such Fiscal Year.

ARTICLE V COVENANTS REGARDING THE SYSTEM, MAINTENANCE, INVESTMENTS AND TAXES

Section 5.1 Utilities; Maintenance of the System in Good Condition; Repair and Replacement Fund.

(a) All maintenance and repair of the Series 2021 Projects and utilities therefor shall be the responsibility of the City. (In exchange for the payment of the amounts due hereunder, the Seller shall provide nothing more than the Series 2021 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 shall create the Repair and Replacement Fund in its custody on the date of original execution and delivery of the Series 2021 Obligations. 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 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 herein 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 this Purchase Agreement or the Trust Agreement to the contrary, the Repair and Replacement Fund is in no way pledged or liened pursuant to this 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 Series 2021 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 Series 2021 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 hereby pledged by the City as security for the payment of this 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 or if not so used shall be placed in the Repair and Replacement Fund in addition to all other moneys required to be deposited in the Repair and Replacement Fund. 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 Series 2021 Obligations and all interest thereon and related costs of administration 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 Series 2021 Obligations. In addition, the City may sell to any other 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 the opinion of the 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 Series 2021 Obligations theretofore 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 and the Seller, the City's obligations hereunder; provided that there shall be first filed with the Deputy City Manager and Chief Financial Officer and the Seller (1) a Special Counsel's Opinion to the effect that (A) such sale will not cause interest on any of the Series 2021 Obligations to become subject to federal income taxation, (B) such sale will not materially diminish the security of the Holders of the Series 2021 Obligations (which opinion may be based on the Consultant's report described in clause (2), below) and (C) the obligations of the City hereunder 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 to refinance the Series 2021 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 5.4 Books, Records and Accounts. The City shall cause to be kept proper books, records and accounts of the System in accordance with standard accounting practices and procedures customarily used for systems of similar nature.

Section 5.5 Satisfaction of Liens. The City shall, from time to time, duly pay and discharge or cause to be paid and discharged all taxes, assessments and other governmental charges, if any, lawfully imposed upon the System or any part thereof or upon the Pledged Revenues, as well as any lawful claims for labor, materials or supplies that if unpaid might by law become a lien or charge upon the System or the revenues or any part thereof or that might impair the security of the Series 2021 Obligations, except when the City in good faith contests its liability to pay the same.

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 such 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 herein. 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 herein provided 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 5.8 Taxes. All taxes of any type or nature charged to the Seller by reason of this Purchase Agreement or affecting the Series 2021 Projects or affecting the amount available to the Seller from payments received hereunder for the payment of the Series 2021 Obligations (including charges assessed or levied by any governmental agency, district or corporation having power to levy taxes) shall upon receipt of invoices therefor be paid by the City. Upon written request of the City, the Seller shall cooperate with the City in taking whatever steps are necessary to contest the amount of tax, or to recover any tax paid if the City believes such tax or assessment to be improper or invalid. The City shall reimburse the Seller for any and all costs, including reasonable attorneys' fees and expenses, thus incurred by the Seller.

ARTICLE VI INDEMNIFICATION

To the extent permitted by law, the City hereby indemnifies and holds the Seller, its directors, officers, agents, attorneys and employees, harmless for, from and against any and all claims, expenses, liens, judgments, liability or loss whatsoever, including reasonable legal fees and expenses, relating to or in any way arising out of (a) this Purchase Agreement, the Trust Agreement, any documents executed in connection herewith or therewith, financing statements, supplements, amendments or additions thereto or the enforcement of any of the terms thereof; (b) the Series 2021 Obligations; (c) any official statement or disclosure documents, either preliminary or final, pertaining to such Series 2021 Obligations; (d) the sale and execution and delivery of the Series 2021 Obligations or the transactions contemplated in any of the aforementioned acts, agreements or documents; or (e) the acquisition, purchase, ownership, lease, possession, rental, use, operation, sale or disposition of the Series 2021 Projects hereunder or in connection herewith (including, without limitation, expense, liability or loss relating to or in any way arising out of injury to persons, property or the environment, patent or invention rights or strict liability in tort). The right of the Seller to indemnification from the City shall not extend to claims, suits and actions successfully brought against the Seller for, or losses, liabilities or expenses incurred as a result of, the negligence, bad faith, willful misconduct or breach of trust of the Seller. To the extent that the City makes or provides for payment under the indemnity provisions hereof, the City shall be subrogated to the rights of the Seller with respect to such event or condition and shall have the right to determine the settlement of claims thereon; provided, however, if the City does not make or provide for payment under the indemnity provisions hereof, the Seller shall have the right to determine such settlement. The City shall pay all amounts due hereunder promptly upon notice thereof from the Seller. In case any action, suit or proceeding is brought against the Seller, if any, by reason of any act or condition which requires indemnification by the City hereunder, the Seller shall notify the City promptly of such action, suit or proceeding, and the City may (and shall upon the request of the Seller), at the expense of the City, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended, by counsel designated by the City and approved by the Seller. If the Seller desires to participate in the defense of such action, suit or proceeding through its own counsel, it may do so at its own expense; provided, however that the Seller's separate counsel shall be at the City's expense if (i) the employment of such counsel has been authorized by the City, or (ii) the City shall have failed promptly after receiving notice of such action from the Seller to assume the defense of such action and employ counsel reasonably satisfactory to the Seller, or (iii) the named parties to any such action (including any impleaded parties) include the Seller and the City, and the Seller shall have been advised by counsel that there may be one or more legal defenses available to such party which are different from or in addition to those available to the City, or (iv) the Seller shall have been advised by counsel that there is a conflict on any issue between the Seller and the City. The Seller, its directors, officers, agents, attorneys, and employees, shall not be liable to the City or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in connection with the Series 2021 Projects. These indemnity provisions shall survive the satisfaction and expiration of this Purchase Agreement and the Trust Agreement and the earlier removal or resignation of the Trustee, as assignee of the Seller under this Purchase Agreement.

ARTICLE VII DEFAULT AND REMEDIES

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

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

(b) The City shall fail to make any payment under Section 3.3(b)(i), (iv) or (v) 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 this 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 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 which may be enacted after execution of this Purchase Agreement.

Section 7.2 Remedies on Default by City. Upon the occurrence of a Purchase Event of Default, the Seller shall, but only if indemnified to its satisfaction by the Holders and requested to do so by the Trustee (acting upon direction from the Holders of a majority in aggregate principal amount of the Series 2021 Obligations), without further demand or notice, exercise any of the available remedies at law or in equity, including, but not limited to, specific performance, however, under no circumstances may amounts due hereunder 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 hereunder. The Seller may assign any or all of its rights and privileges under this Section to the Trustee, and upon furnishing evidence of such assignment to the City, the Trustee may exercise any or all of such rights or privileges as it may deem advisable. Nothing herein shall be deemed to authorize the Seller to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment, or composition affecting the Series 2021 Obligations or the rights of any Holder thereof, or to authorize the Seller to vote in respect of the claim of any Holder in any such proceeding without the approval of the Holders so affected.

Section 7.3 Default by Seller. The Seller shall in no event be in default in the performance of any of its obligations under this Purchase Agreement unless and until the Seller shall have failed to perform such obligation within thirty (30) days or such additional time as is reasonably required to correct any such default after notice by the City to the Seller properly

specifying how the Seller has failed to perform any such obligation. No default by the Seller shall relieve the City of its obligations to make the various payments required in this Purchase Agreement, so long as any of the Series 2021 Obligations remain Outstanding; however, the City may exercise any other remedy available at law or in equity to require the Seller to remedy such default so long as such remedy does not interfere with or endanger the payments required to be made to the Trustee under the Trust Agreement.

ARTICLE VIII MISCELLANEOUS

Section 8.1 Arizona Law to Govern; Entire Agreement.

(a) This Purchase Agreement shall be governed exclusively by the provisions hereof and by the laws of the State as the same from time to time exist.

(b) This Purchase Agreement and the Trust Agreement express the entire understanding and all agreements of the parties hereto with each other and neither party hereto has made or shall be bound by any agreement or by representation to the other party with respect to the matters covered by this Purchase Agreement which is not expressly set forth in this Purchase Agreement or in the Trust Agreement.

Section 8.2 Amendments for Securities and Exchange Commission, Blue Sky and Other Limited Purposes. If it shall ever become necessary to make any amendment to this Purchase Agreement or to the Trust Agreement in order to permit the qualification of the Trust Agreement under the Trust Indenture Act of 1939 or the registration of the Series 2021 Obligations with the Securities and Exchange Commission or the sale of the Series 2021 Obligations in accordance with the “blue sky” laws of any state, the City and the Seller shall agree to such amendments to both this Purchase Agreement and the Trust Agreement as may be necessary or advisable, based on an Opinion of Counsel, to permit such qualification, registration or sale.

Section 8.3 Assignment and Pledge of Seller’s Interest in Purchase Agreement. The Seller assigns, mortgages, hypothecates and pledges to the Trustee all and every part of the right, privilege and interest of the Seller in this Purchase Agreement. The City consents to such assignment, mortgage hypothecation and pledge.

Section 8.4 Recordation and Filing of Instruments. The City shall prepare all documents of every kind and description, make all filings and recordings and shall deliver all Opinions of Counsel to the Seller and to the Trustee required under any provision of the Trust Agreement.

Section 8.5 Right of Seller and Trustee to Perform City’s Obligations. In the event that the City should fail for any reason to make any payment or perform any obligation under this Purchase Agreement, and such failure shall continue for a period of 30 days after written notice has been given to the City by the Seller or the Trustee specifying such failure and requesting that it be remedied, the Seller, or the Trustee on its behalf, may but shall not be required to make any such payment or to perform any such duty. The amount of such payment and all expenses reasonably incurred by the Seller, or the Trustee on its behalf, in making such payment and

performing such duty shall be additional items payable hereunder and shall be paid by the City immediately upon invoices by the Seller or the Trustee with interest at the average rate of interest applicable to the Series 2021 Obligations from the date said payment was due or expenses incurred to the date of payment by the City.

Section 8.6 Notices; Mailing Addresses. All notices, consents or other communications required or permitted hereunder shall be deemed sufficient if given in writing addressed and mailed by registered or certified mail, delivered, or transmitted by telecopy, telex or other electronic transmission that produces written evidence of its delivery, to the party for which the same is intended, as follows:

To the Seller: UMB Bank, n.a.
2777 East Camelback Road, Suite 350
Phoenix, Arizona 85016
Attention: Corporate Trust Department

To the City: City of Mesa, Arizona
P.O. Box 1466
Mesa, Arizona 85211
Attention: Deputy City Manager and Chief
Financial Officer

To the Trustee: UMB Bank, n.a.
2777 East Camelback Road, Suite 350
Phoenix, Arizona 85016
Attention: Corporate Trust Department

or to such other address as such party may hereafter designate by notice in writing addressed and mailed or delivered to the other party to this Purchase Agreement.

Section 8.7 Amendments. This Purchase Agreement may only be amended with the express written consent of the Trustee and in accordance with the provisions of the Trust Agreement.

Section 8.8 Severability. If any term or provision of this Purchase Agreement or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Purchase Agreement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Purchase Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 8.9 Counterparts. This Purchase Agreement may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but all together shall constitute but one Purchase Agreement, and it is also understood and agreed that separate counterparts of this Purchase Agreement may separately be executed by the Seller and the City, all with the same full force and effect as though the same counterpart had been executed by both the Seller and the City.

Section 8.10 Assignment by City. Neither this Purchase Agreement nor any interest of the City herein may at any time after the date hereof, without the prior written consent of the Trustee, be mortgaged, pledged, assigned or transferred by the City by voluntary act or by operation of law or otherwise. The City shall at all times remain liable for the performance of all of the covenants and conditions on its part to be performed, notwithstanding any such action.

Section 8.11 Interested Parties. Nothing in this Purchase Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Trustee, the Paying Agent, if any, and the Holders of the Series 2021 Obligations, any right, remedy or claim under or by reason of this Purchase Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Purchase Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee, the Paying Agent, if any, and the Holders of the Series 2021 Obligations.

Section 8.12 Certain Statutory Notices.

(a) To the extent applicable by provision of law, the Seller acknowledges that this Purchase Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, as amended, the provisions of which are incorporated herein and which provides that the City may within three (3) years after its execution cancel any contract (including this 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.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, as amended, the Seller shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the E-verify requirements under Section 23-214(A), Arizona Revised Statutes, as amended. The breach by the Seller of the foregoing shall be deemed a material breach of this Purchase Agreement and may result in the termination of the services of the Seller by the City. The City retains the legal right to randomly inspect the papers and records of the Seller to ensure that the Seller is complying with the above-mentioned warranty. The Seller shall keep such papers and records open for random inspection during the Seller's normal business hours. The Seller shall reasonably cooperate with the random inspections by the City including granting the City entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential. The City shall, to the extent not otherwise prohibited by applicable law, preserve the confidentiality of any information, records or papers the City views, accesses or otherwise obtains during any and every such random inspection, including, without limitation, such information.

(c) To the extent applicable, pursuant to Section 35-393 et seq., Arizona Revised Statutes, the Seller hereby certifies it is not currently engaged in, and for the duration of this Purchase Agreement shall not engage in, a boycott of Israel. The term "boycott" has the meaning set forth in Section 35-393, Arizona Revised Statutes. If the City determines that the

Seller's certification above is false or that it has breached such agreement, the City may impose remedies as provided by law.

Section 8.13 Holidays. When any action is provided herein to be done on a day named or within a time period named, and the day or the last day of the period falls on a day other than a Business Day, it may be performed on the next ensuing Business Day with effect as though performed on the appointed day or within the specified period.

Section 8.14 Instructions. The Seller shall have the right to accept and act upon Instructions given pursuant to this Purchase Agreement by Authorized Officers and delivered using Electronic Means; provided, however, that the City shall provide to the Seller an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City, whenever a person is to be added or deleted from the listing. If the City elects to give the Seller Instructions using Electronic Means and the Seller in good faith elects to act upon such Instructions, the Seller's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Seller cannot determine the identity of the actual sender of such Instructions and that the Seller shall presume that directions that purport to have been sent by an Authorized Officer have been sent by such Authorized Officer listed on the incumbency certificate provided to the Seller. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Seller and that the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Seller shall not be liable for any losses, costs or expenses arising directly or indirectly from the Seller's good faith reliance upon and compliance with such Instructions, to the extent consistent with the provisions of this Purchase Agreement, notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Seller, including without limitation the risk of the Seller acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Seller and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Seller immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 8.15 The Seller. The Seller is the seller of the Series 2021 Projects described in this Purchase Agreement solely for purposes of effecting the financing described in this Purchase Agreement and the Trust Agreement, bears no responsibility for the Series 2021 Projects and shall in no event be reflected in the chain of title for the Series 2021 Projects. The Seller shall have the same rights, protections, immunities and indemnities under this Purchase Agreement as afforded to the Trustee under the Trust Agreement.

ARTICLE IX MASTER BOND RESOLUTION

Section 9.1 Master Bond Resolution Controls. The terms and provisions of the Master Bond Resolution shall control in all respects to the extent the Master Bond Resolution is inconsistent with this Purchase Agreement, including, but not limited to, 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; and all other material matters. So long as the Bonds are Outstanding (as defined in the Master Bond Resolution), the Series 2021 Obligations and any Additional Obligations shall be junior in lien to the Bonds, as permitted by the Master Bond Resolution.

Section 9.2 Pledged Revenues Computation When Bonds Outstanding.

(a) So long as the Bonds are Outstanding under the Master Bond Resolution, the definition of “Revenues” pertaining to the Obligations shall be modified to reflect the following additional exclusions described in the Master Bond Resolution: the interest received on any investment of Bond proceeds placed irrevocably in trust to pay, or provide for the payment of, any Bond, a Bond Being Refunded or defeased or other outstanding revenue bonds originally secured in whole or in part by System Revenues.

(b) So long as the Bonds are Outstanding under the Master Bond Resolution, the definition of “Operating Expenses” pertaining to the Obligations shall be modified to reflect the following additional exclusions described in the Master Bond Resolution: payments into the Bond Fund, the Reserve Fund, the Reimbursement Fund and the Rebate Fund.

Section 9.3 Priority of Lien; Parity Bonds Covenant.

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

(b) 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. As an example and without limitation, the City deposits required pursuant to Section 10(B)(1) of the Master Bond Resolution on the tenth (10th) day of each month shall be completed prior to the City transfers required pursuant to Section 3.3(a).

(c) So long as the 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 this Purchase Agreement, provided that the City may issue Bonds upon meeting the conditions specified in the Master Bond Resolution.”

Section 9.4 Modified Tests When Bonds Outstanding.

(a) For purposes of the tests in Sections 3.3(b)(iv) and 4.2 in this Purchase Agreement, and in Section 5.4(iii)(B) of the Trust Agreement, the term “*Additional Obligations*” shall be defined to include “*Outstanding Bonds*” as defined in the Master Bond Resolution. For purposes of the tests in Sections 4.4, 5.3(b) and 5.3(c) in this Purchase Agreement, the term “*Additional Obligations*” in the definition of “*Parity Lien Test Debt Service*” shall also be defined to include Outstanding Bonds.

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

Section 9.5 Termination of This Article IX; Master Bond Resolution Amendments. This Article IX 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 Series 2021 Obligations.

IN WITNESS WHEREOF, the City and the Seller have caused their respective corporate names to be signed hereto by their respective officers thereunto duly authorized, all as of the day and year first above written.

UMB BANK, N.A., as the Seller

By _____
Sandra Battas, Vice President

CITY OF MESA, ARIZONA, as Purchaser

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Sherman & Howard L.L.C., Special Counsel

ACKNOWLEDGEMENT AND ACCEPTANCE

UMB Bank, n.a., as trustee (the “*Trustee*”) under the Trust Agreement, dated as of the date of this Installment Purchase Agreement, between the City and the Trustee, has caused its corporate name to be signed to this Purchase Agreement by its duly authorized officer, all as of the day and year first above written, for purposes of acknowledging receipt of this Purchase Agreement and accepting the assignment and pledge of the Seller contained in Section 8.3.

UMB BANK, N.A., as Trustee

By _____
Sandra Battas, Vice President

[Acknowledgement and Acceptance of Installment Purchase Agreement]

EXHIBIT A

DESCRIPTION OF SERIES 2021 PROJECTS

The Series 2021 Projects include construction, expansion and improvement of the natural gas, water, electrical, and wastewater systems of the System, including the following:

[PROJECT DETAILS TO COME FROM CITY]

EXHIBIT B

FORM OF BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

That UMB Bank, n.a., a national association authorized to do trust business in the United States of America including in the State of Arizona (the "*Seller*"), for good and valuable consideration received by the Seller from the City of Mesa, Arizona (the "*City*"), receipt of which is hereby acknowledged, does by these presents grant, bargain, sell and convey (without recourse, representation or warranty) to the City, its successors and assigns, the Series 2021 Projects as defined in the Installment Purchase Agreement, dated as of _____ 1, 2021, by and between the Seller and the City, to have and to hold the property as sold to the City and its successors and assigns forever.

IN WITNESS WHEREOF, the Seller has caused this Bill of Sale to be executed this ____ day of _____, 2021.

UMB BANK, N.A., as Seller

By _____
Sandra Battas, Vice President