



SERIES 2019 UTILITY SYSTEM REVENUE TRUST AGREEMENT

by and between

ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
as Trustee

and

THE CITY OF FLAGSTAFF, ARIZONA,
as Purchaser

Dated as of June 1, 2019

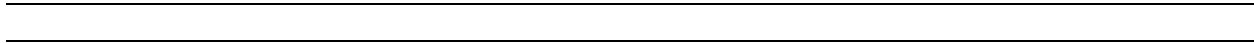


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SERIES 2019 UTILITY SYSTEM REVENUE TRUST AGREEMENT

THIS SERIES 2019 UTILITY SYSTEM REVENUE TRUST AGREEMENT, dated as of June 1, 2019 (this “*Agreement*”), by and between THE CITY OF FLAGSTAFF, ARIZONA, a municipal corporation of the State of Arizona (the “*City*”), and ZIONS BANCORPORATION, NATIONAL ASSOCIATION, a national banking association, authorized to exercise trust powers in the State of Arizona, as trustee, and any successor to its duties hereunder (the “*Trustee*”),

WITNESSETH:

WHEREAS, the Seller (as such term and all terms not defined hereinabove are hereinafter defined) and the City, as purchaser, have entered into the Utility System Purchase Agreement in connection with the execution and delivery of the Series 2019 Obligations and to provide the deposits to the Improvements Fund and the Delivery Costs Fund; and

WHEREAS, for the purpose of obtaining the moneys to provide such deposits, rights pursuant to the Utility System Purchase Agreement have been assigned and transferred to the Trustee for purposes hereof, and in consideration of such assignment and the execution hereof, the Trustee has executed and delivered the Series 2019 Obligations, each evidencing a proportionate interest in certain rights pursuant to the Utility System Purchase Agreement, including the payment of the Purchase Price;

GRANTING CLAUSES

NOW, THEREFORE, in order to secure all of the Series 2019 Obligations executed and delivered pursuant hereto, the payment of principal thereof and interest thereon, the rights of the Owner of the Series 2019 Obligations and the performance and observance of the covenants and conditions contained herein and in the Series 2019 Obligations and the Utility System Purchase Agreement, the City absolutely and irrevocably pledges and assigns to the Trustee, and the Trustee shall receive and hold as security for the Owner of the Series 2019 Obligations and there shall be granted a security interest in and released, assigned, transferred, pledged, mortgaged, granted and conveyed unto the Trustee or any successor to its duties hereunder, the following described property:

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

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

C. Any and all other real or personal property of any kind from time to time hereafter by delivery or by writing of any kind specifically conveyed, pledged, assigned or transferred, as and for additional security hereunder for the Series 2019 Obligations by the City or by anyone on its behalf or with its written consent, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof,

TO HAVE AND TO HOLD, all said properties assigned, mortgaged, hypothecated and pledged and conveyed by the Seller, including all additional property which by the terms hereof has or may become subject to the encumbrance hereof, unto the Trustee and its successors in trust and its assigns forever, subject, however, to the rights reserved hereunder,

IN TRUST, nevertheless, for the benefit and security of the Owners from time to time of the Series 2019 Obligations executed and delivered hereunder, without preference, priority or distinction as to lien or otherwise of any of the Series 2019 Obligations over any other or others of the Series 2019 Obligations; and conditioned, however, that if all liabilities, obligations and sums at any time secured hereby shall be well and truly paid, or caused to be paid fully and promptly when due, and all of the covenants, warranties and agreements contained herein shall promptly, faithfully and strictly be kept, performed and observed, then and in such event, this Agreement shall be and become void and of no further force and effect; otherwise, the same shall remain in full force and effect, and upon the trust and subject to the covenants and conditions hereafter set forth.

For such purposes, the City and the Trustee hereby agree as follows:

**ARTICLE I
DEFINITIONS AND OTHER PROVISIONS
OF GENERAL APPLICATION**

Section 1.1 Definitions. In addition to the terms defined in the first paragraph hereof and in the Recitals hereto and, unless the context otherwise requires, the following words and phrases shall have the following meanings:

“*Additional Parity Obligations*” means any additional obligations having a lien payable from Net Revenues on a parity with the Outstanding Parity Obligations and the Utility System Purchase Agreement which may hereafter be issued or incurred by the City (or any financing conduit acting on behalf of the City) in compliance with the terms of the Utility System Purchase Agreement.

“*Authorized Officers*” means officers authorized to provide Instructions; provided, however, that the City shall provide to the Trustee an incumbency certificate listing officers with such authority to provide such Instructions 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.

“*Bank*” means _____.

“*Bond Year*” means each one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year shall begin on the date of issue of the Series 2019 Obligations and shall end on the date selected by the City, provided that the first Bond Year shall not exceed one calendar year. The last Bond Year shall end on the date of retirement of the Series 2019 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 2019 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 2019 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).

“*Business Day*” means 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 Agent are not required or authorized by law or executive order to remain closed.

“*City Representative*” means the Management Services Director or any other person at any time designated to act on behalf of the City 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. Such certificate may designate one or more alternates.

“*Closing Date*” means June __, 2019.

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

“*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, or any combination thereof.

“*Delivery Costs*” mean costs and expenses relating to the sale, credit enhancement and execution and delivery of the Series 2019 Obligations, including, but not limited to “out of pocket” expenses and charges, fees and disbursements of counsel, printing expenses and other expenses reasonably incurred by the City and the Trustee in connection with this Agreement and the Utility System Purchase Agreement.

“*Delivery Costs Fund*” means the fund of that name created pursuant to Section 5.1.

“*Depository Trustee*” means any financial institution meeting the requirements as a successor Trustee under Section 8.6 which may be designated by the City.

“*Electronic Means*” means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

“*Governmental Authority*” means the government of the United States of America or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“*Gross Proceeds*” means:

- (i) any amounts actually or constructively received by the City from the sale of the Series 2019 Obligations;
- (ii) transferred proceeds of the Series 2019 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 2019 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 2019 Obligations, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Series 2019 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.

“*Instructions*” mean instructions, including funds transfer instructions, delivered using Electronic Means.

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

“*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 as provided in Regulations section 1.148-1(b).

“*Material Adverse Effect*” means an event or occurrence which adversely affects in a material manner (a) the City or the System or the other assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City or the System, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Agreement or to meet or perform its obligations under this Agreement on a timely basis, (c) the validity or enforceability of this Agreement or the Purchase Agreement, or (d) the exclusion of the interest portion of the payments under the Purchase Agreement from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

“*Material Litigation*” means any action, suit, proceeding, inquiry or investigation against the City or the System or with respect to the City or the System in any court or before any arbitrator of any kind or before or by any Governmental Authority, (i) if determined adversely to the City or the System, could have a Material Adverse Effect, (ii) seek to restrain or enjoin any of the transactions contemplated by this Agreement, or (iii) may adversely affect (A) the exclusion of the interest portion of the payments under the Purchase Agreement from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes or (B) the ability of the City to perform its obligations under this Agreement.

“*Maximum Annual Debt Service*” means the greatest aggregate fiscal year’s debt service or payments due with respect to all of the Outstanding Parity Obligations and the Utility System Purchase Agreement then outstanding and on the Additional Parity Obligations to be issued or incurred.

“*Moody’s*” mean Moody’s Investors Service, Inc.

“*Net Revenues*” means Revenues remaining after deducting therefrom the amount necessary to pay the Operation and Maintenance Expenses.

“*Nonpurpose Investment*” means any Investment Property acquired with Gross Proceeds, and which is not acquired to carry out the governmental purposes of the Series 2019 Obligations.

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

“*Obligation Payment Date*” means January 1 and July 1, commencing January 1, 2020.

“*Operation and Maintenance Expenses*” means all costs reasonably incurred in connection with the operation, use and maintenance of the System, including repairs and renewals (other than capital improvements and acquisition of water and sewer properties) necessary to keep the System in efficient and economical operating condition, including the payment of premiums for insurance required with respect to the System and generally all expenses, exclusive of depreciation, which under sound accounting practice are properly chargeable to, and reasonable and necessary to, the efficient and operation of the System.

“*Opinion of Counsel*” means a written opinion of an attorney or firm of attorneys who (except as otherwise expressly provided herein or in the Utility System 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 and, while the Bank is the Owner of the Obligations, must be approved by the Bank, which approval shall not be withheld unreasonably.

“*Outstanding Parity Obligations*” means: the Loan Agreement, dated June 29, 2007, between the City and WIFA; the Loan Agreement, dated October 9, 2008, between the City and WIFA; the Loan Agreement-Red Gap Ranch, dated July 24, 2009, between the City and WIFA; the Loan Agreement-Sinagua Well, dated July 24, 2009, between the City and WIFA; the Loan Agreement-Red Gap Ranch II, dated October 2, 2009, between the City and WIFA; the Loan Agreement-Fort Tuthill Well, dated October 2, 2009, between the City and WIFA; and the Series 2017 Utility System Revenue Purchase Agreement, dated as of August 1, 2017, between the City and The Bank of New York Mellon Trust Company, N.A.

“*Owner*” or “*owner*” means the registered owner of the Series 2019 Obligation and initially means the Bank.

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

“*Permitted Investments*” means any investment permitted by applicable law which shall include the following:

A. Direct obligations of, and obligations fully and unconditionally guaranteed as to timely payment by, the United States government and any agency, instrumentality, or establishment of the United States government.

B. Commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from Moody’s and S&P, of A1 and P1, respectively.

C. Repurchase and reverse repurchase agreements collateralized with obligations described in subparagraph (A), including those of the Trustee or any of its affiliates.

D. Investment in money market mutual funds having a rating in the highest investment category granted thereby from S&P or Moody’s, including those for which the Trustee or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise.

E. Bank deposit products, demand deposits, including interest bearing money market accounts, time deposits, trust funds, trust accounts, overnight bank deposits, interest-bearing deposits, and certificates of deposit, including those placed by a third party pursuant to an agreement between the Trustee and the City, or bankers acceptances of depository institutions, including the Trustee or any of its affiliates, which are fully FDIC-insured.

“*Person*” shall include an individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“*Principal Account*” means the account of the Obligation Fund of that name created pursuant to Section 5.1.

“*Projects*” means various capital improvement projects for the System. Water capital projects include, but are not limited to: Water Services Building Purchase and Remodel, Switzer Canyon Waterline Replacement Phase 3, Interstate 40 Country Club Water Transmission Line, Fountain Street Waterline Replacement, and Design/Replacement of Aging Water Infrastructure. Wastewater capital projects include, but are not limited to: Wildcat Gas Conveyance System Improvements, Westside Interceptor Improvements, Rio Plant UV System Replacement, Biosolids Master Plan, Wildcat Digester #3, and Design/Replacement of Aging Wastewater Infrastructure.

“*Purchase Event of Default*” means one of the events defined as such in Section 6.1 of the Utility System Purchase Agreement.

“*Purchase Price*” means the sum of the payments required to be paid pursuant to Section 2.3(ii) and (iii) of the Utility System Purchase Agreement.

“*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.

“*Record Date*” means (i) with respect to any Obligation Payment Date occurring on the first calendar day of any month, the fifteenth day of the calendar month next preceding that Obligation Payment Date (regardless of whether such fifteenth day is a Business Day) or (ii) such other date as may be designated pursuant to Section 2.2(c).

“*Regulations*” means the 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.

“*Revenues*” means and includes all gross income and revenues of any kind howsoever derived from the sales and services of the System, including all rates, fees and charges and all gross revenues of all improvements, additions and extensions to the System hereafter constructed or acquired, as determined in accordance with generally accepted accounting principles, together with any interest earned thereon.

“*S&P*” mean Standard & Poor’s Financial Services LLC.

“*Seller*” means the Trustee in its capacity as seller under the Utility System Purchase Agreement.

“*Series 2019 Obligations*” means the Utility System Revenue Obligations, Series 2019 executed and delivered pursuant hereto.

“*Special Counsel*” means an attorney or 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.

“*System*” means and includes all of the properties and facilities of the complete water and sewer systems of the City, whether lying within or without the boundaries of the City, as now existing and as they may hereafter be improved or extended, all improvements, additions and extensions thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise and all contracts, rights, agreements, leases and franchises of every nature owned by the City and used or useful or held for use in the operation of said plant and system or any part or portion thereof.

“*Tax Certificate*” means the Certificate Relating To Federal Tax Matters delivered by the City in connection with the original delivery of the Series 2019 Obligations.

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

“*Utility System Purchase Agreement*” means the Series 2019 Utility System Revenue Purchase Agreement, dated as of June 1, 2019, by and between the City and the Seller.

“*WIFA*” means the Water Infrastructure Finance Authority of Arizona.

Section 1.2 Interpretation.

(a) Any reference herein to the Board or any officer of the City shall include those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

(b) Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender.

(c) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof. References to “Articles” and “Sections” are to those in this Agreement.

Section 1.3. Series 2019 Obligations Not General Obligations of the City. The Series 2019 Obligations shall be payable solely out of the revenues and other security pledged

hereby and shall not constitute an indebtedness or general obligation of the City within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the City or be a charge against the City's general credit or a charge against the general credit or the taxing powers of the State or any political subdivision thereof.

ARTICLE II AUTHORIZATION AND TERMS OF SERIES 2019 OBLIGATIONS

Section 2.1 Authorization of Series 2019 Obligations. The Trustee is hereby authorized and directed, upon receipt of a request in writing from the City Representative, to prepare, execute and deliver the Series 2019 Obligation to the original purchaser thereof. In no event shall the Series 2019 Obligations be deemed a debt or liability of the Trustee.

Section 2.2 Form, Date and Payment Terms of Series 2019 Obligations.

(a) The Series 2019 Obligations shall be in the original principal amount of \$____,000, and mature on July 1, 20__, be dated the date of their initial execution and delivery, be delivered in the form of a single physically certificated, fully registered Series 2019 Obligation, and bear interest from the most recent Obligation Payment Date to which interest has been paid or for which due provision has been made or, if no interest has been paid, from the date of their initial execution and delivery. The proportionate share of the portion of each installment of the Purchase Price designated as interest with respect to any Series 2019 Obligation shall be computed by multiplying the remaining unpaid principal with respect to the Series 2019 Obligations (whether paid as a result of mandatory prepayment or maturity) by ____ percent (on the basis of a 360-day year of twelve 30-day months); except that the first installment shall be for interest from the date of initial execution and delivery to January 1, 2020.

(b) The Series 2019 Obligations shall be executed and delivered only in fully registered form and shall be numbered or otherwise designated in a manner specified by the Trustee so as to distinguish each Series 2019 Obligation from every other Series 2019 Obligation.

(c) Interest on the Series 2019 Obligations shall be payable when due to the Owner in whose name the Series 2019 Obligation is registered at the close of business on the Record Date with respect to each Obligation Payment Date, irrespective of any transfer or exchange of such Series 2019 Obligation subsequent to such Record Date and prior to such Obligation Payment Date, unless there is a default in the payment of interest due on such Obligation Payment Date. In the event of any such default, such defaulted interest shall be payable to the Owner in whose name such Series 2019 Obligation is registered at the close of business on a special Record Date for the payment of such defaulted interest established by notice mailed by the Trustee to the Owner of the Series 2019 Obligations not less than 15 days preceding such special Record Date. Such notice shall be mailed to the Owner in whose name the Series 2019 Obligation is registered at the close of business on the fifth day preceding the date of mailing. If the Trustee registers the transfer of any Series 2019 Obligation subsequent to the mailing of such notice and on or before the special Record Date, any such notice of payment of defaulted interest shall be binding upon the transferee and a copy of the notice of payment of defaulted interest shall

be delivered by the Trustee to the transferee along with the Series 2019 Obligation or Series 2019 Obligations.

(d) Principal of and interest on the Series 2019 Obligations shall be payable in any coin or currency of the United States of America which, on the related Obligation Payment Dates, is legal tender for the payment of public and private debts. Payment of principal of and interest on the Series 2019 Obligations (except that due on July 1, 20__) shall be made by wire transfer of immediately available funds to an account located in a bank within the United States pursuant to wire transfer directions issued by the then Owner of the Series 2019 Obligations. Payment of principal of and interest on the Series 2019 Obligations due on July 1, 20__, shall be paid upon physical delivery and surrender of the Series 2019 Obligations to the Trustee on such date. Notwithstanding the foregoing, for the period while the Bank is the Owner of the Obligations, amounts shall be wired to the following:

Name of Bank: _____
ABA Number: _____
Account Number: _____
Customer Name: _____

Section 2.3 Mutilated, Destroyed, Lost and Stolen Series 2019 Obligations. If (a) any mutilated Series 2019 Obligation is surrendered to the Trustee, or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Series 2019 Obligation, and (b) there is delivered to the Trustee such security or indemnity as the Trustee may require to hold the Trustee harmless, then, in the absence of notice to the Trustee that such Series 2019 Obligation has been acquired by a *bona fide* purchaser and upon the Owner paying the reasonable expenses of the Trustee and of any security or indemnity obligation required by the Trustee, the Trustee shall execute and deliver, in exchange for such mutilated Series 2019 Obligation or in lieu of such destroyed, lost or stolen Series 2019 Obligation, a new Series 2019 Obligation of remaining payable principal amount and like tenor. If any such mutilated, destroyed, lost or stolen Series 2019 Obligation has become, or will on or before the next Obligation Payment Date become, due and payable, the Trustee may, in its discretion, pay such Series 2019 Obligation when due instead of delivering a new Series 2019 Obligation.

Section 2.4 Execution of Series 2019 Obligations. All Series 2019 Obligations shall be executed by and in the name of the Trustee by manual signature of an authorized representative of the Trustee. If any authorized representative of the Trustee whose signature appears on any Series 2019 Obligation ceases to be such authorized representative before the date of initial execution and delivery of the Series 2019 Obligations, such signature shall nevertheless be as effective as if the authorized representative had remained in office through such date. Any Series 2019 Obligation may be executed on behalf of the Trustee by such person as at the actual date of the execution of such Series 2019 Obligation shall be the proper officer of the Trustee, although at the nominal date of such Series 2019 Obligation such person shall not have been such officer of the Trustee.

Section 2.5 Registration and Transfer of Series 2019 Obligations.

(a) All Series 2019 Obligations executed and delivered hereunder shall be negotiable, subject to the provisions for registration and transfer thereof contained herein or in the Series 2019 Obligations.

(b) The Trustee shall maintain at its offices books for the registration and transfer of Series 2019 Obligations and shall provide for the registration and transfer of any Series 2019 Obligation under such reasonable regulations as the Trustee may prescribe. The Trustee shall act as registrar for purposes of exchanging and registering Series 2019 Obligations in accordance with the provisions hereof.

(c) Each Series 2019 Obligation shall be transferable only in whole and not in part upon the registration books maintained by the Trustee, by the Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered Owner or his duly authorized attorney. Upon surrender for transfer of any Series 2019 Obligation, the Trustee shall execute and deliver, in the name of the transferee, a new Series 2019 Obligation, of the principal amount remaining payable at maturity as the surrendered Series 2019 Obligation.

(d) All Series 2019 Obligations surrendered in any transfer of Series 2019 Obligations shall forthwith be cancelled by the Trustee.

(e) In connection with any such transfer of Series 2019 Obligations the Owner requesting such transfer shall as a condition precedent to the exercise of the privilege of making such transfer remit to the Trustee an amount sufficient to pay any tax or other governmental charge required to be paid with respect to such transfer.

Section 2.6 Persons Deemed Owners. The Person in whose name any Series 2019 Obligation shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal of and interest on any Series 2019 Obligation shall be made only to or upon the written order of the registered Owner thereof. Such payment shall be valid and effectual to satisfy and discharge the liability upon such Series 2019 Obligation to the extent of the amount so paid.

**ARTICLE III
PREPAYMENT OF SERIES 2019 OBLIGATIONS**

Section 3.1 Prepayment Provisions.

(a) Principal of the Series 2013 Obligations is subject to prepayment from prepayments made by the City pursuant to Section 2.6 of the Purchase Agreement, in whole or in part on any date at a price equal to the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

(b) Principal of the Series 2019 Obligations shall be prepaid on July 1 of the years indicated and in the amounts indicated at a price equal to the amount thereof plus interest accrued to the date of prepayment, but without premium, with a final maturity amount of \$____,000 payable in 20__:

Year Prepaid

Principal Amount Prepaid

Section 3.2 Selection of Obligation for Prepayment. The City shall, at least forty-five (45) days prior to any optional prepayment date, notify the Trustee of such prepayment date and the amount to be prepaid on such date.

Section 3.3 Notice of Prepayment; Effect.

(a) The Trustee shall cause notice of any optional prepayment hereunder to be transmitted electronically to the Owner of the Series 2013 Obligations to be prepaid at the address appearing in the register kept for such purpose. Each such notice shall be sent no more than 60 nor less than 30 calendar days prior to the prepayment date.

(b) If at the time of the giving of notice of the optional prepayment of principal of the Series 2013 Obligations, there has not been deposited with the Trustee moneys or Defeasance Obligations sufficient to prepay the Series 2019 Obligations and the requirements of (d) below are not satisfied, then such notice shall state that the prepayment is conditional upon the deposit of moneys or Defeasance Obligations sufficient for the prepayment with the Trustee and satisfaction of such requirements not later than the opening of business on the prepayment date, and such notice will be of no effect and such Obligations shall not be prepaid unless such moneys or Defeasance Obligations are so deposited and such requirements in (d) below are met.

(c) Notice having been provided in the manner provided in (b) above, the Series 2013 Obligations shall become due and payable on the prepayment date and shall be paid at the prepayment price, plus interest accrued to the prepayment date.

(d) If the money or Defeasance Obligations for the prepayment of all of the Series 2013 Obligations, together with interest accrued thereon to the prepayment date, is held by the Trustee on the prepayment date, so as to be available therefor on that date, then from and after the prepayment date such principal thereof to be prepaid shall cease to bear interest, and, the Series 2013 Obligations no longer shall be considered to be outstanding hereunder. If those

moneys shall not be so available on the prepayment date, such principal shall continue to bear interest, until paid, at the same rate as they would have borne otherwise.

ARTICLE IV FORM OF SERIES 2019 OBLIGATIONS

The Series 2019 Obligations shall be substantially in the form set forth in the *Exhibit* hereto with such omissions, insertions and variations as are consistent with the provisions hereof.

ARTICLE V REVENUES AND FUNDS

Section 5.1 Creation of Funds and Accounts. The Trustee shall create (a) the Obligation Fund, which shall contain the following accounts: (i) the Interest Account and (ii) the Principal Account, and (b) the Delivery Costs Fund. Such fund and accounts shall be held in trust for the benefit of the Owner.

Section 5.2 Application of Series 2019 Obligation Proceeds. The Trustee shall receive \$____,000.00, being the proceeds of the sale of the Series 2019 Obligations. The Trustee shall (a) deposit such proceeds in an amount equal to \$_____ to the Delivery Costs Fund and (b) transfer the balance of such proceeds to the City for deposit to the Improvements Fund.

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 2.3(ii) of the Utility System Purchase Agreement.
- (ii) The Trustee shall deposit to the Principal Account amounts paid pursuant to Section 2.3(iii) of the Utility System Purchase Agreement.

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 the portion of each installment of the Purchase Price designated as interest represented by the Series 2019 Obligations as it becomes due.
- (ii) Amounts in the Principal Account shall be used to pay the principal (whether because of maturity or mandatory prepayment) represented by the Series 2019 Obligations as scheduled.

Section 5.5 *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 owner 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 hold such moneys uninvested.

(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.

(c) The Trustee may make any investment permitted by this Section, through or with its own commercial banking or investment departments unless otherwise directed by the City Representative.

(d) The Trustee shall sell at the best price obtainable, or present for redemption, any Permitted Investment purchased by it as an investment whenever it shall be necessary in order to provide moneys to meet any payment or transfer from the fund or account for which such investment was made.

(e) (i) The City shall not knowingly make any investment at a “yield” in excess of the maximum yield, if any, stated with respect to the source of moneys therefor in any arbitrage or other similar certificate executed and delivered pursuant to section 148 of the Code or any successor section of the Code, issued in connection with the execution and delivery of the Series 2019 Obligations except during any “temporary period” stated in any arbitrage or other certificate, and the City shall make and keep appropriate records of such investments, yields and temporary periods as required by section 148 of the Code or any successor section thereof. Notwithstanding the foregoing, investments may be made at a higher “yield” or for a different “temporary period” or both in accordance with written instructions of Special Counsel filed with and addressed to the Trustee, accompanied by the written investment direction of the City.

- (ii) The City shall not knowingly use or direct or permit the use of any moneys of the City in its possession or control in any manner which would cause any Series 2019 Obligation to be an “*arbitrage bond*” within the meaning ascribed to such term in section 148 of the Code, or any successor section of the Code. The City shall comply with and take all actions required by any arbitrage or similar certificate and will continue to do so notwithstanding any satisfaction or discharge of this Agreement.

Section 5.6 Liability of Trustee for Investments. The Trustee shall not be liable for any loss resulting from the making of any investment made in accordance with the provisions hereof except for its own negligence and willful misconduct. The Trustee may rely on the investment directions of the City as to both the suitability and legality of the directed investments. The City acknowledges that regulations of the Comptroller of the Currency grant the City the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the City specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

Section 5.7 Investment Income. Except as otherwise provided herein, interest income and gain received, or loss realized, from investments or moneys in any fund or account shall be credited, or charged, as the case may be, to such respective fund or account.

Section 5.8 Delivery Costs Fund Proceeds from the sale of the Series 2019 Obligations shall be deposited in the Delivery Costs Fund as described in Section 5.2. The Trustee shall disburse moneys in the Delivery Costs Fund only upon a requisition signed by the City Representative, setting forth the amounts to be disbursed for payment or reimbursement of Delivery Costs and the person or persons to whom such amounts are to be disbursed, stating that the amounts to be disbursed are for Delivery Costs properly chargeable to the Delivery Costs Fund. Amounts remaining in the Delivery Costs Fund after December 1, 2019, or such earlier date as the City has notified the Trustee that all Delivery Costs have been paid, shall be transferred to the City for deposit to the Improvements Fund.

The Trustee shall be responsible for the safekeeping and investment, upon the written direction of the City Representative, of the moneys held in the Delivery Costs Fund in Permitted Investments and the payment thereof in accordance with this Section. Notwithstanding the foregoing, the Trustee shall be entitled to rely conclusively on the requisitions and written orders supplied to it by the City Representative in connection with disbursements made pursuant to this Section.

ARTICLE VI CERTAIN COVENANTS

Section 6.1 Payment of Principal and Interest. Subject to the limited liability and sources of payment specified herein, the Series 2019 Obligations shall be promptly paid in the amounts due at the place, on the dates and in the manner provided herein and in said Series 2019 Obligations according to the terms thereof. The amounts due on the Series 2019 Obligations are payable solely from moneys held or received by the Trustee hereunder, all of which are hereby specifically assigned and pledged to such payment in the manner and to the extent specified herein and nothing herein or in the Series 2019 Obligations shall be construed as assigning or pledging any other funds or assets of the City.

Section 6.2 Performance of Covenants. Subject to the limited liability and sources of payment described herein, the City shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions on its part to be performed as provided herein, in each and every Series 2019 Obligation executed and delivered hereunder and in all proceedings of the City pertaining thereto.

Section 6.3 Instruments of Further Assurance. The City shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such instruments supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require (which the Trustee has no duty to so require) for the better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Trustee all interests, revenues and receipts pledged hereby to the payment of the principal of and interest on the Series 2019 Obligations in the manner and to the extent contemplated herein.

Section 6.4 Rights under Utility System Purchase Agreement. The Trustee may enforce all rights under the Utility System Purchase Agreement for and on behalf of the Owner, whether or not the City is then in default hereunder.

Section 6.5 Protection of Lien. The City shall not make or create or agree to permit to be made or created any assignment or lien on a parity with or having priority or preference over the assignment and lien hereof upon the interests granted hereby or any part thereof except as otherwise specifically provided in the Utility System Purchase Agreement. No obligation the payment of which is secured by property or revenues pledged hereunder shall be executed and delivered by the City except in lieu of, or upon transfer of registration or exchange of, any Series 2019 Obligation as provided in the Utility System Purchase Agreement.

Section 6.6 Providing Information to Owner.

(a) The City shall provide notice to the Bank if then still the Owner of the Obligations when the budget of the City for the next fiscal year and the audited financial statements of the City for the preceding fiscal year are available on the website of the City. The former shall be available within 30 days after the beginning of such fiscal year, and the latter shall be available within 210 days of the end of such fiscal year. (If not so available, the Bank if then still the Owner of the Obligations shall be provided the same upon request.) Upon request and to

the extent available, the City shall provide unaudited financial statements to the Bank if then still the Owner of the Obligations for any fiscal year for which audited financial statements are not yet available.

(b) The City shall also furnish or cause to be furnished to the Bank if then still the Owner of the Obligations within ten (10) days notice of any Material Litigation or events causing a Material Adverse Effect, or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to the City or the System and such other material information respecting the business, condition (financial or otherwise) or operations of the City and the System as such Owner may from time to time reasonably request.

ARTICLE VII DEFAULT AND REMEDIES

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

(i) If payment of any installment of interest on any Series 2019 Obligation shall not be made in full when the same becomes due and payable;

(ii) If payment of the principal on any Series 2019 Obligation shall not be made in full when the same becomes due and payable;

(iii) If, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of all or any part of the interests pledged hereunder and such custody or control shall continue for more than 60 days;

(iv) If the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions on its part to be performed as provided herein or in the Series 2019 Obligations and such default shall continue for 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the Trustee, unless within such 30 days the City shall have commenced and be diligently pursuing in good faith appropriate corrective action to the satisfaction of the Trustee, but in no event shall such corrective action occur more than 60 days after such notice; the Trustee may give such notice in its discretion and shall give such notice at the written request of the Owner; or

(v) If any Purchase Event of Default 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 Article VII hereof and Article VI of the Utility System Purchase Agreement, the Trustee may, and upon the written request of the Owner, together with indemnification of the Trustee to its satisfaction therefor, shall, proceed forthwith to protect and enforce its rights and the rights of the Owner hereunder and the Series 2019 Obligations by such

suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to, an action for the recovery of any amounts due hereunder or for damages for the breach of this Agreement, and the Trustee may pursue any other remedy which the law affords, including the remedy of specific performance. The Trustee shall also have those remedies provided pursuant to Article VI of the Utility System Purchase Agreement, subject to any limitations on such remedies set forth in such Article VI.

(b) Regardless of the happening of a Trust Agreement Event of Default and subject to Section 7.7, the Trustee, if requested in writing by the Owner shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient (i) to prevent any impairment of the security hereunder by any acts which may be unlawful or in violation hereof, or (ii) to preserve or protect the interests of the Owner, provided that such request is in accordance with law and the provisions hereof.

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 payment dates, any amounts due hereunder.

Section 7.4 Application of Revenues and Other Moneys After Default.

(a) During the continuance of a Trust Agreement Event of Default all moneys then held by the Trustee hereunder, or moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys, including reasonable attorneys' fees, 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 hereunder shall be applied as follows:

First: To the payment of all installments of interest (including interest on amounts unpaid when due on the Series 2019 Obligation); and

Second: To the payment of the unpaid Principal Installments which shall have become due, whether at maturity or because of prepayment 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 Series 2019 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 Owner until such Series 2019 Obligation shall be 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 Series 2019 Obligations which 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 7.5 Remedies Not Exclusive. No remedy by the terms hereof conferred upon or reserved to the Trustee or the Owner is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity or by statute on or after the date hereof.

Section 7.6 Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) hereunder or under any of the Series 2019 Obligations may be enforced by the Trustee, without the possession of any of the Series 2019 Obligations or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding may be brought without the necessity of joining as plaintiff or defendant the Owner. Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of the Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Obligations or the rights of the Owner thereof, or to authorize the Trustee to vote in respect of the claim of the Owner in any such proceeding without the approval of the Owner.

Section 7.7 Individual Owner Action Restricted.

(a) No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement hereof or for the execution of any trust hereunder or for any remedy hereunder 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 hereunder upon the occurrence of all of the following events:

(i) The Owner shall have made written request to the Trustee to proceed to exercise the powers granted herein; and

(ii) Such Owner shall have offered the Trustee indemnity as provided in Section 8.2(v); and

(iii) The Trustee shall have failed or refused to exercise the duties or powers herein granted 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 Owner.

(b) No Owner shall have any right in any manner whatsoever to affect, disturb or prejudice the security hereof or to enforce any right hereunder except in the manner herein provided.

(c) Nothing contained herein shall affect or impair, or be construed to affect or impair, the right of the Owner (i) to receive payment of the principal of or interest on the

Series 2019 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.

Section 7.8 Termination of Proceedings. In case any proceeding taken on account of a Trust Agreement Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Owner, then the City, the Trustee and the Owner shall be restored to their former positions and rights hereunder, and all rights and powers of the Trustee and the Owner shall continue as if no such proceeding had been taken.

Section 7.9 Waiver of Event of Default.

(a) No delay or omission of the Trustee or of the Owner 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 this Article may be exercised from time to time and as often as may be deemed expedient.

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

(c) In case of any waiver by the Trustee of a Trust Agreement Event of Default hereunder, the City, the Trustee and the Owner shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Trust Agreement Event of Default or impair any right consequent thereon. 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 7.10 Notice of Default.

(a) Within 30 days after (i) the occurrence of a Trust Agreement Event of Default under Section 7.1(i) or (ii) of which the Trustee is deemed to have notice, or (ii) receipt by the Trustee of actual knowledge or written notice of a Trust Agreement Event of Default under Section 7.1(iii), (iv) or (v), the Trustee shall, unless such Trust Agreement Event of Default shall have theretofore been cured, give written notice thereof by first class mail to the Owner.

(b) The Trustee shall immediately notify the City of (i) the occurrence of a Trust Agreement Event of Default under Section 7.1(i) or (ii) and (ii) when the Trustee has received actual knowledge or written notice of a Trust Agreement Event of Default under Section 7.1(iii), (iv) or (v).

Section 7.11 Limitation of Liability.

(a) Except for the payment of amounts pursuant to the Utility System Purchase Agreement when due and the performance of the other covenants and agreements of the

City contained in the Utility System Purchase Agreement and herein, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owner with respect to this Agreement or the terms, execution, delivery or transfer of the Series 2019 Obligations, or the distribution of applicable portions of the Purchase Price to the Owner by the Trustee.

(b) The City shall not have any obligation or liability to any of the other parties or to the Owner with respect to the performance by the Trustee of any duty imposed upon it under this Agreement; nor shall the Trustee have any obligation or liability to any of the other parties or to the Owner with respect to the performance by the City of any duty imposed upon them under this Agreement.

Section 7.12 Limitations on Remedies. It is the purpose and intention of this Article to provide rights and remedies to the Trustee and the Owner which may be lawfully granted, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Owner shall be entitled, as above set forth, to every other right and remedy provided in this Agreement and, to the extent consistent with the provisions of this Agreement, by law.

ARTICLE VIII THE TRUSTEE

Section 8.1 Certain Duties and Responsibilities.

(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 this Agreement, and no implied covenants or obligations shall be read into this 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 this Agreement; but in the case of any such certificates or opinions which are required by any provision hereof or of the Utility System Purchase Agreement, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement or the Utility System 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 this Agreement, and use the same degree of care and skill in their exercise, as a prudent corporate trustee would exercise or use under the circumstances.

(c) No provision of this 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 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 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, senior associate, 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 and having direct responsibility for the administration of this Agreement;

(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 in accordance with the direction of the Owner as provided herein 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 this Agreement and

(iv) no provision of this 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 hereunder, 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 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 all other reasonable disbursements, including its own fees, 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 this 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:

(i) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, obligation, note or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.

(ii) Any request or direction of the City mentioned herein shall be sufficiently evidenced by a certificate of the City Representative, and any action of the Mayor and Council of the City may be sufficiently evidenced by a copy of a resolution

certified by the Clerk or Assistant Clerk of the City to have been duly adopted by the Mayor and Council of the City and to be in full force and effect on the date of such certification and delivered to the Trustee.

(iii) Whenever in the administration of this Agreement the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a certificate of the City Representative.

(iv) The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

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

(vi) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, obligation, note or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(vii) The Trustee may engage agents and attorneys to assist it in executing any of the trusts or powers hereunder or performing any duties hereunder and shall not be liable for the negligence or misconduct of such agents and attorneys so long as the Trustee exercises due care in the selection thereof.

(viii) The Trustee shall not be responsible for the recording or filing of any documents relating to the Utility System Purchase Agreement or this Agreement.

(ix) The permissive right of the Trustee to do things enumerated in this Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Certificates.

(x) In acting or omitting to act pursuant to the Utility System Purchase Agreement, the Trustee shall be entitled to all of the rights, immunities and

indemnities accorded to it under this Agreement, including, but not limited to, this Article VIII.

Section 8.3 Employment of Experts. The Trustee is hereby authorized to employ as its agents such attorneys at law, certified public accountants and recognized authorities in their fields (who are not employees of the Trustee), as it reasonably may deem necessary to assist it to carry out any of its obligations hereunder, and shall be reimbursed by the City for all reasonable expenses and charges in so doing.

Section 8.4 Enforcement of Performance by Others. Except as provided in Section 8.1 or otherwise specifically provided herein, it shall not be the duty of the Trustee to see that any duties and obligations herein imposed upon the City are performed.

Section 8.5 Right to Take Other Actions. It is understood and agreed that the Trustee engages in a general banking business and no provision hereof or of the Utility System Purchase Agreement is to be construed to limit or restrict the right of the Trustee to engage in such business with the City or the Owner. So engaging in such business shall not, in and of itself, and so long as the Trustee duly performs all of its duties as required hereby and by the Utility System Purchase Agreement, constitute a breach of trust on the part of the Trustee, but neither shall engaging in such business abrogate, alter or diminish any duty or obligation of the Trustee as Trustee hereunder.

Section 8.6 Removal and Resignation of Trustee.

(a) The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the City and by mailing written notice of the resignation to the Owner as its name and address appears on the register it maintains with respect to the Series 2019 Obligations at the close of business fifteen days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee.

(b) The Trustee may be removed upon thirty (30) days' prior notice by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the City and signed by (i) the City Representative or (ii) by or on behalf of the Owner. 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 this 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 Owner. Any removal shall not take effect until a successor Trustee shall have 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 Owner objects to the successor Trustee so appointed by the City and if the Owner designates another Person qualified to act as the Trustee, the City shall then appoint as the Trustee the Person so designated by the Owner.

(e) Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Trustee shall be a trust company or bank having the powers of a trust company as to trusts, qualified to do trust business in the State or the United States and having an officially reported combined capital, surplus, undivided profits and reserves aggregating at least \$75,000,000, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(f) Every successor Trustee howsoever appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City an instrument in writing, accepting such appointment hereunder, and thereupon such successor Trustee, without further action, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, and such predecessor shall execute and deliver an instrument transferring to such successor Trustee all the rights, power and trusts of such predecessor. The predecessor Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Trustee. The predecessor Trustee shall promptly deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Trustee.

(g) Each successor Trustee, not later than ten days after its assumption of the duties hereunder, shall mail a notice of such assumption to the Owner.

(h) Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee without the execution or filing of any paper or any further act, provided such company shall be eligible as a successor Trustee under this Agreement.

Section 8.7 Proof of Claim. The Trustee shall have the right and power to take actions in the name and place of the City or the Owner to make proof of claim in any proceeding, bankruptcy, reorganization or otherwise where proof of claim may be required.

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 hereunder; to reimbursement upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this 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 willful misconduct; and, together with its officers, directors, agents and employees, to be indemnified by the City, for, from and against any loss, liability, claim, suit, cost, judgment, damages or expense (including reasonable legal fees and

expenses) arising out of or in connection with the acceptance or administration of this trust or its duties hereunder, under the Utility System Purchase Agreement or any other document or transaction contemplated herewith or therewith. The Trustee's right to indemnity shall not extend to claims, suits and actions successfully brought against the Trustee for, or losses, liabilities or expenses incurred as a result of the Trustee's own negligence or willful misconduct. In the event any action or proceeding is instituted or pending against the Trustee by reason of or in connection with the acceptance or administration of this trust or the Trustee's duties hereunder, the City may, at its election, assume the defense of any such action or proceeding with counsel satisfactory to the Trustee. If any such action or proceeding includes any claims alleging the Trustee's own negligence or willful misconduct, the Trustee shall reimburse the City its expenses (including reasonable attorneys' fees), if any, of assuming the defense of such action or proceeding if it is determined by a final judgment of a court of competent jurisdiction that the Trustee is not entitled to be indemnified as authorized in this Section. Any settlement of any such action or proceeding shall not, of itself, create a presumption as to the merits of any claims alleging the Trustee's own negligence or willful misconduct. The Trustee's rights to compensation, reimbursement and indemnity while serving as Trustee hereunder shall survive resignation or removal of the Trustee or discharge of this Agreement.

(b) Any provision hereof to the contrary notwithstanding, if the City fails, within 30 days of receiving an itemized invoice and back-up documentation, to make any payment properly due the Trustee for its reasonable fees, costs, expenses and fees of attorneys, certified public accountants, recognized authorities in their field and agents (not employees of the Trustee) incurred in performance of its duties, the Trustee may reimburse itself from any moneys on hand in any fund or account created pursuant hereto and shall have a lien prior to the Owner. When the Trustee incurs expenses or renders services after the occurrence of a Trust Agreement Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 8.9 Destruction of Series 2019 Obligations. Upon payment of or surrender to the Trustee for cancellation of any Series 2019 Obligation, the Trustee shall destroy such Series 2019 Obligation.

Section 8.10 Reports. The Trustee shall quarterly, or at such other intervals as the Trustee and the City shall from time to time agree upon (but in no event more frequently than monthly), prepare and submit to the City reports covering all moneys received and all payments, expenditures and investments made as the Trustee hereunder since the last previous such report.

Section 8.11 Separate or Co-Trustee.

(a) At any time or times, solely for the purpose of meeting any legal requirements of any jurisdiction other than Arizona, the City and the Trustee shall have power to appoint, and, upon the request of the Trustee or of the Owner and the City shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons, approved by the Trustee and, unless a Trust Agreement Event of Default has occurred and is continuing, reasonably acceptable to the City,

either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the pledged property, or to act as separate trustee or separate trustees of all or any part of the pledged property, and to vest in such Person or Persons, in such capacity, such title to the pledged property or any part thereof, and such rights, powers, duties, trusts or obligations as the City and the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

(b) If the City shall not have joined in such appointment within 30 days after the receipt by it of a request so to do, or in case a Trust Agreement Event of Default shall have occurred and be continuing, the Trustee alone shall have power to make such appointment.

(c) The City shall execute, acknowledge and deliver all such instruments as may reasonably be required by any such co-trustee or separate trustee for more fully and certainly vesting in such co-trustee or separate trustee the Projects, rights, powers and duties intended to be vested in such co-trustee or separate trustee.

(d) Every co-trustee or separate trustee shall, to the extent permitted by law but to such extent only, be appointed subject to the following terms, namely:

(i) The Series 2019 Obligations shall be executed and delivered, and all rights, powers, trusts, duties and obligations hereby conferred upon the Trustee in respect to the custody, control and management of moneys, papers, securities and other personal property shall be exercised, solely by the Trustee.

(ii) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees or separate trustee or separate trustees jointly, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(iii) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee and such co-trustee or separate trustee shall abide by such request.

(iv) Any co-trustee or separate trustee may, to the extent permitted by law, delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(v) The Trustee may at any time, by any instrument in writing, with the concurrence of the City, accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case a Trust Agreement Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the

resignation of, or remove, any such co-trustee or separate trustee. Upon the request of the Trustee, the City shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal.

(vi) No Trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder, nor will the act or omission of any trustee hereunder be imputed to any other trustee.

(vii) Any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing delivered to the Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee.

(viii) Any moneys, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

(e) Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested jointly with the Trustee (except insofar as local law makes it necessary for any such co-trustee or separate trustee to act alone) with such title to the pledged property or any part thereof, and with such rights, powers, duties or obligations, as shall be specified in the instrument of appointment subject to all the terms hereof. Every such acceptance shall be filed with the Trustee. To the extent permitted by law, any co-trustee or separate trustee may, at any time by an instrument in writing signed by the Trustee and any co-trustee or separate trustee, constitute the Trustee, its or his attorney-in-fact and agent, with full power and authority to do all acts and things and to exercise all discretion on its or his behalf and in its or his name.

(f) In case any co-trustee or separate trustee shall dissolve, cease to exist, become incapable of acting, resign or be removed, the title to the pledged property, and all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the manner herein provided.

Section 8.12 Recitals and Representations.

(a) The recitals, statements and representations contained herein, or in any Series 2019 Obligation (excluding the Trustee's execution of the Series 2019 Obligations or any recitals or representations concerning the Trustee or its powers) shall not be taken or construed as made by the Trustee, and the Trustee neither assumes nor shall be under any responsibility for the correctness of the same.

(b) The Trustee makes no representation as to, and is not responsible for, the validity or sufficiency hereof, of the Series 2019 Obligations, or, except as herein required, the filing or recording or registering of any document. The Trustee shall be deemed not to have made representations as to the security afforded hereby or hereunder or as to the validity or

sufficiency of such document. The Trustee shall not be concerned with or accountable to anyone for the use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof. Except as to defaults described in Sections 7.1(a)(i) and (ii) of which the Trustee is deemed to have notice, the Trustee shall have no duty of inquiry with respect to any default or Trust Agreement Events of Default described herein without actual knowledge of or receipt by the Trustee of written notice of a default or a Trust Agreement Event of Default from the Owner.

ARTICLE IX
SUPPLEMENTS TO TRUST AGREEMENT AND AMENDMENTS TO
UTILITY SYSTEM PURCHASE AGREEMENT

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

(i) To cure any ambiguity or formal defect or omission herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein, or, to make any other provisions with respect to matters or questions arising hereunder provided such action shall, in the opinion of counsel delivered to the Trustee under Section 9.3(a), not materially adversely affect the interests of the Owner;

(ii) To grant or confer upon the Owner 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 Series 2019 Obligations;

(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 Section 8.6 and Section 8.11;

(vi) To permit Series 2019 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 Series 2019 Obligations to become includible in gross income for purposes of federal income taxes;

(vii) To preserve the exclusion of the interest on the Series 2019 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 Series 2019 Obligations authorized hereby) the interest on which is likewise exempt from federal and State income taxes; and

(viii) To adopt procedures for the disclosure of information to Owners 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 this Agreement by agreement of the Trustee and the City.

Section 9.2 Supplements Requiring Consent of Owner.

(a) Other than supplements referred to in Section 9.1 and subject to the terms and provisions and limitations contained in this Article and not otherwise, the Owner shall have the right, from time to time, anything contained herein to the contrary notwithstanding, to consent to and approve the execution by the City and 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 respect, any of the terms or provisions contained herein.

(b) If at any time the City shall request 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 the Owner at its address as it appears on the registration books herein provided for, by the means provided in Article XI. 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 the Owner.

(c) If within such period as shall be prescribed by the City, following the mailing of such notice, the Trustee shall receive an instrument purporting to be executed by the Owner specified in subsection (a) for the supplement in question which instrument or instruments shall refer to the proposed Supplement described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice as on file with the Trustee, thereupon, but not otherwise, the Trustee and the City may execute such supplement in substantially such form, without liability or responsibility to any Owner of any Series 2019 Obligation, whether or not such Owner shall have consented thereto.

(d) Any such consent shall be binding upon the Owner giving such consent and upon any subsequent Owner and of any Series 2019 Obligation executed and delivered in exchange therefor (whether or not such subsequent Owner thereof has notice thereof), unless such consent is revoked in writing by the Owner giving such consent or by a subsequent Owner thereof by filing with the Trustee, prior to the execution by the Trustee of such supplement, such revocation. At any time after the Owner shall have filed its consent to the supplement, the Trustee shall make and file with the City a written statement to that effect. Such written statement shall be conclusive that such consents have been so filed.

(e) If the Owner shall have consented to and approved the execution of such Supplement as herein provided, no Owner of any Series 2019 Obligation shall have any right to object to the execution thereof, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to

enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 9.3 Execution and Effect of Supplements.

(a) In executing any Supplement permitted by this Article, the Trustee and the City shall be entitled to receive and to rely in good faith upon an Opinion of Counsel stating that the execution of such Supplement is authorized or permitted hereby. The Trustee may but shall not be obligated to enter into any such Supplement which affects the Trustee's own rights, duties or immunities.

(b) Upon the execution and delivery of any Supplement in accordance with this Article, the provisions hereof shall be modified in accordance therewith and such Supplement shall form a part hereof for all purposes and every Owner of a Series 2019 Obligation theretofore or thereafter executed and delivered hereunder shall be bound thereby.

(c) Any Series 2019 Obligation executed and delivered after the execution and delivery of any Supplement in accordance with this Article may, and if required by the Trustee shall, bear a notation in form approved by the Trustee as to any matter provided for in such Supplement. If the Trustee shall so determine, upon receipt of Special Counsel's Opinion, new Series 2019 Obligations so modified as to conform in the opinion of the Trustee to any such Supplement may be executed and delivered by the Trustee in exchange for and upon surrender of Series 2019 Obligations.

Section 9.4 Amendments to Utility System Purchase Agreement Not Requiring Consent of Owner. The Trustee may, without the consent of or notice to the Owner consent to and join with the City in the execution and delivery of any amendment, change or modification of the Utility System Purchase Agreement as may be required (i) by the provisions thereof; (ii) to cure any ambiguity or formal defect or omission therein or to correct or supplement any provision therein which may be inconsistent with any other provision therein, or to make any other provisions with respect to matters or questions arising thereunder provided such action shall, in the opinion of counsel delivered to the Trustee under this Section, not materially adversely affect the interests of the Owner; and (iii) to preserve the exclusion of the interest on the Series 2019 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 Series 2019 Obligations authorized hereby) the interest on which is likewise exempt from federal and State income taxes in connection with any other change therein, which will not, in the opinion of counsel delivered to the Trustee under this Section 9.4, materially adversely affect the interests of the Owner or, in the opinion of the Trustee, the Trustee. In executing any amendment to the Utility System 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 this Agreement and under the Utility System Purchase Agreement.

Section 9.5 Amendments to Utility System Purchase Agreement Requiring Consent of Owner.

(a) Except for amendments, changes or modification to the Utility System Purchase Agreement referred to in Section 9.4 hereof and subject to the terms and provisions and limitations contained in this Article 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 Utility System Purchase Agreement only upon the consent of the Owner, 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 Utility System Purchase Agreement or reduce the amount of or extend the time for making such payments without the consent of the Owner.

(b) If at any time the City shall request the consent of the Trustee to any such amendment, change or modification to the Utility System Purchase Agreement, the Trustee shall, upon being satisfactorily indemnified by the City with respect to expenses, cause notice of the proposed amendment, change or modification to be given in the same manner as provided in Section 9.2 with respect to Supplements hereto. Such notice shall briefly set forth the nature of the proposed amendment, change or modification and shall state that copies thereof are on file at the office of the Trustee for inspection by the Owner.

(c) If the consent to and approval of the execution of such amendment, change or modification is given by the Owner within the time and in the manner provided by Section 9.2 with respect to Supplements hereto, but not otherwise, such amendment, change or modification may be consented to, executed and delivered upon the terms and conditions and with like binding effect upon the Owners as provided in Section 9.2 and Section 9.3 with respect to Supplements hereto.

**ARTICLE X
SATISFACTION AND DISCHARGE**

Section 10.1 Discharge.

(a) If payment of all principal of and interest on the Series 2019 Obligation is made in accordance with its terms and as provided herein and in Section 2.5 of the Utility System Purchase Agreement, or is provided for in accordance with this Article, and if all other sums, if any, payable hereunder shall be paid, then the liens, estates and security interests granted hereby shall cease. Thereupon, upon 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 hereof have been satisfied, the Trustee shall execute and deliver proper instruments acknowledging such satisfaction and discharging the lien hereof and the Trustee shall transfer all property held by it hereunder, other than moneys or obligations held by the Trustee for payment of amounts due or to become due on the Series 2019 Obligations and 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 indemnified, compensated or reimbursed for services rendered and expenditures incurred in connection herewith.

(b) The City may at any time surrender to the Trustee for cancellation any Series 2019 Obligations previously executed and delivered which the City may have acquired in any manner whatsoever and such Series 2019 Obligations upon such surrender and cancellation shall be deemed to be paid and retired.

Section 10.2 Providing for Payment of Series 2019 Obligations.

(a) Payment of all or any part of the Series 2019 Obligations may be provided for by the deposit with the Trustee or a Depository Trustee of moneys or Defeasance Obligations which are not redeemable in advance of their maturity dates. 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 acceptable to such Depository Trustee, to pay when due the principal of and interest on such Series 2019 Obligations. The moneys and Defeasance Obligations shall be held by the Trustee or such Depository Trustee irrevocably in trust for the Owner solely for the purpose of paying the principal of and interest on such Series 2019 Obligations as the same shall mature or come due.

(b) Notwithstanding the foregoing, no deposit under subsection (a) above shall be deemed a payment of such Series 2019 Obligation as aforesaid until the City, having given the Trustee irrevocable instructions in form satisfactory to the Trustee, to notify, as soon as practicable, the Owner that the deposit required by subsection (a) has been made with the Trustee.

(c) If payment of Series 2019 Obligations is so provided for, the Trustee or the Depository Trustee shall mail a notice so stating to the Owner.

(d) Series 2019 Obligations, the payment of which has been provided for in accordance with this Section, shall no longer be deemed outstanding hereunder or secured hereby. The obligation in respect of such Series 2019 Obligations shall nevertheless continue but the Owner shall thereafter be entitled to payment only from the moneys or Defeasance Obligations deposited with the Trustee or the Depository Trustee to provide for the payment of such Series 2019 Obligations.

(e) No Series 2019 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 Series 2019 Obligation is made, the interest payable on any Series 2019 Obligation is made includable 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 Series 2019 Obligations.

Section 10.3 Payment of Series 2019 Obligations After Discharge.

Notwithstanding the discharge of the lien hereof as in this Article provided, the Trustee shall nevertheless retain such rights, powers and duties hereunder as may be necessary and convenient

for the payment of amounts due or to become due on the Series 2019 Obligations and the registration, transfer, exchange and replacement of Series 2019 Obligations as provided herein. Nevertheless, any moneys held by the Trustee for the payment of the principal of or interest on any Series 2019 Obligation remaining unclaimed for two years after the same shall become due and payable at maturity by declaration as provided herein, shall then be paid to the City (without liability for interest) and the Owner of any Series 2019 Obligations not theretofore presented for payment shall thereafter be entitled to look only to the City for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease. The obligations of the Trustee under this Section shall be subject, however, to the requirements of any applicable law regarding the disposition of unclaimed property.

ARTICLE XI MISCELLANEOUS

Section 11.1 Evidence of Acts of Owner.

(a) Any request, direction, consent or other instrument provided hereby to be signed and executed by the Owner may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owner in person or by agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Series 2019 Obligations, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Trustee and the City, with regard to any action taken by them, or either of them, under such request or other instrument, namely:

(i) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the Person signing such writing acknowledged before him the execution thereof, or by the affidavit of a witness of such execution; and

(ii) The ownership of Series 2019 Obligations shall be proved by the register of such Series 2019 Obligations.

(b) Nothing in this Section shall be construed as limiting the Trustee to the proof herein specified, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient.

(c) Any action taken or suffered by the Trustee pursuant to any provision hereof, upon the request or with the assent of any Person who at the time is the Owner, shall be conclusive and binding upon all future Owners.

Section 11.2 Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Agreement or the Series 2019 Obligations is intended or shall be construed to give to any Person other than the parties

hereto, the City and the Owner any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions and provisions herein contained.

Section 11.3 Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof, or the Series 2019 Obligations executed and delivered pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

Section 11.4 Holidays. When the date on which principal of or interest on any Series 2019 Obligation is due and payable is not a Business Day, payment may be made on Series 2019 Obligations presented at such place of payment on the next Business Day with effect as though payment were made on the due date, and, if such payment is made, no additional interest shall accrue from and after such due date. When any other 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 11.5 Governing Law. This Agreement and the Series 2019 Obligations are contracts made under the laws of the State and shall be governed and construed in accordance with such laws.

Section 11.6 Notices.

(a) Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall be deemed sufficiently given or served if given in writing, mailed by first class mail, postage prepaid and addressed as follows:

(i) If to the Trustee, addressed to it at Zions Bancorporation, National Association, 6001 North 24th Street, Building B, Phoenix, Arizona 85016, Attention: Corporate Trust Services;

(ii) If to the registered Owner of a Series 2019 Obligation, addressed to such Owner at the address shown on the registration books kept pursuant hereto; provided, however, that while the Bank is the Owner of the Obligations, the following address: _____; and

(iii) If to the City, addressed to it at 211 North Aspen Avenue, Flagstaff, Arizona, 86001, Attention: Management Services Director.

(b) The parties listed above may from time to time by notice in writing to the others designate a different address or addresses for notices hereunder.

Section 11.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute one instrument.

Section 11.8 Waiver of Personal Liability. No director, officer, agent, financial advisor, counsel or employee of the City shall be individually or personally liable for the payment of the principal of or interest on the Series 2019 Obligations; but nothing herein contained shall relieve any such director, officer, agent, financial advisor, counsel or employee from the performance of any official duty provided by law.

Section 11.9 Binding Effect. This instrument shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns subject to the limitations contained herein. Except as provided herein, the trust under this Agreement shall not be assigned to any other person, corporation, partnership or trustee unless the Trustee is required by law to divest, or does divest, itself of its trust department or unless the Trustee shall sell or assign substantially all of its corporate trust business in which event the trust hereunder shall be continued by the Trustee's successor in interest.

Section 11.10 Certain Statutory Notices.

(a) To the extent applicable by provision of law, the Trustee acknowledges that this Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, 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 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, the Trustee 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. The breach by the Trustee of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of the Trustee by the City. The City retains the legal right to randomly inspect the papers and records of the Trustee to ensure that the Trustee is complying with the above-mentioned warranty. The Trustee shall keep such papers and records open for random inspection during normal business hours by the City. The Trustee shall 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. To the extent it may agree to do so pursuant to applicable law, the City shall 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) Pursuant to Section 35-393 et. seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this 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 Trustee's certification above is false or that it has breached such agreement, the City may impose remedies as provided by law.

Section 11.11 Electronic Instructions. The Trustee shall have the right to accept and act upon Instructions. If the City elects to give the Trustee Instructions and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee 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 Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions 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 Trustee, including without limitation the risk of the Trustee 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 Trustee 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 Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 11.12 Force Majeure. The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, "acts of God", terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other like occurrences beyond the control of the Trustee; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

* * *

[Signature page follows.]

IN WITNESS WHEREOF, the City has caused these presents to be signed in the name and on its behalf by its duly authorized officer, and to evidence its acceptance of the trusts hereby created the Trustee has caused these presents to be signed in its name and on its behalf by its duly authorized officer, all as of the day and year first above written.

ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as Trustee

By.....

Print Name:.....

Title:.....

CITY OF FLAGSTAFF, ARIZONA

By.....

Mayor

ATTEST:

.....
Clerk

EXHIBIT

(Form of Series 2019 Obligation)

CITY OF FLAGSTAFF, ARIZONA
UTILITY SYSTEM REVENUE OBLIGATION, SERIES 2019

Number: R-.....

Interest <u>Rate:</u> _____%	Payment <u>Date:</u> July 1, 20__	<u>Dated:</u> June __, 2019
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REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

The registered owner identified above, or registered assigns, as the registered owner of this Utility System Revenue Obligation, Series 2019 (this "*Obligation*"), is the owner of the right to receive certain installments of the "Purchase Price" pursuant to that certain Series 2019 Utility System Revenue Purchase Agreement, dated as of June 1, 2019 (the "*Utility System Purchase Agreement*"), by and between, a national banking association, authorized to exercise trust powers in the State of Arizona, in its separate capacity as seller (the "*Seller*"), and the City of Flagstaff, Arizona, a municipal corporation of the State of Arizona, as purchaser (the "*City*"), which installments and certain other rights and interests under the Utility System Purchase Agreement have been assigned to, in its separate capacity as trustee (together with any successor thereto, the "*Trustee*"), pursuant to that certain Series 2019 Utility System Revenue Trust Agreement, dated as of June 1, 2019 (the "*Trust Agreement*"), by and between the City and the Trustee.

The registered owner of this obligation is entitled to receive, subject to the terms of the Trust Agreement, the principal amount set forth above, on the payment date set forth above, and to receive on January 1, 2020, and semiannually on January 1 and July 1 of each year thereafter until payment in full of said principal, the registered owner's proportionate share of the installments of the Purchase Price denominated as interest coming due during the six month period (or portion thereof) immediately preceding each of such dates; provided that the first installment shall be for interest from the date of initial execution and delivery to January 1, 2020. Said proportionate share of the portion of such installments designated as interest is the result of the multiplication of the aforesaid portion of such installments designated as principal by the rate per annum set forth above.

The proportionate share of the portion of the installments of the Purchase Price denominated as interest is payable when due to the person in whose name this obligation is registered at the close of business on the 15th day of the calendar month next preceding such

interest payment date, except that interest not duly paid or provided for when due shall be payable to the person in whose name this obligation is registered at the close of business on a special record date to be fixed for the payment of defaulted interest. Such defaulted interest shall be payable to the person in whose name such obligation is registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed to the owner of the obligation not less than 15 days preceding such special record date. Such notice shall be mailed to the owner in whose name this obligation is registered at the close of business on the fifth day preceding the date of mailing. If the Trustee registers the transfer on any obligation subsequent to the mailing of such notice and on or before the special record date, any such notice of payment of defaulted interest shall be binding upon the transferee and a copy of the notice of payment of defaulted interest shall be delivered by the Trustee to the transferee along with the obligation or obligations. (Any payment due hereon which shall not be paid when due shall bear interest at the rate of interest, compounded semiannually, set forth above from the date such payment is due until the payment is made.)

Principal of and interest on this obligation are payable in lawful money of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts. Payments of principal and interest (other than those due on the Payment Date identified above) will be made by wire transfer of immediately available funds. Payments of principal and interest due on such Payment Date will be paid upon physical delivery and surrender of this obligation to the Trustee.

This obligation is one of a series, limited in aggregate original principal amount of \$____,000 (the "*Series 2019 Obligations*"), executed and delivered under the Trust Agreement which are limited, special revenue obligations, payable solely from the sources (particularly the Utility System Purchase Agreement) and in the manner described in the Trust Agreement, in order to finance certain property comprising the works of the utility system of the City. The payments to be made by the City pursuant to the Utility System Purchase Agreement are to be in an amount sufficient to make the payments due on the Series 2019 Obligations, and payments by the City under the Utility System Purchase Agreement are to be made from, and secured by a pledge of, certain revenues to be derived by the City from such system. Under the restrictions set out in the Utility System Purchase Agreement, additional parity obligations have been and may be incurred by the City payable from such revenues. (No senior obligations may be incurred by the City payable from such revenues.) For a more complete statement of the provisions made to secure payment of the Series 2019 Obligations, the revenues from and conditions under which this obligation is payable, statements of the terms under which the Utility System Purchase Agreement may be modified and the general covenants and provisions pursuant to which this obligation is issued, reference is made to the Trust Agreement.

This obligation shall not constitute a debt of the City, the State of Arizona or any political subdivision thereof within the meaning of any provision of the Constitution or laws of the State of Arizona and shall not constitute or give rise to a pecuniary liability of the City, the State or any other political subdivision thereof or a charge against the general credit or taxing powers of any of them. This obligation and the interest hereon are enforceable exclusively from the revenues pledged thereto in the Utility System Purchase Agreement, and no owner hereof shall have the

right to compel any exercise of the taxing power of the City to pay this obligation or the interest hereon.

Counterparts or copies of the Trust Agreement and the other documents referred to herein are on file at the designated office of the Trustee, and reference is hereby made thereto and to the documents referred to therein for the provisions thereof, including the provisions with respect to the rights, obligations, duties and immunities of the Trustee, the City, and the registered owners of the Series 2019 Obligations under such documents, to all of which the registered owner hereof, by acceptance of this obligation, assents.

Principal of this obligation is subject to prepayment in whole or in part on any date at a price equal to the principal amount to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

Principal on the Series 2019 Obligation shall be prepaid on July 1 of the years indicated and in the principal amounts indicated at a price equal to the amount thereof plus accrued interest to the date of prepayment, but without premium, with a final maturity amount of \$____,000 payable in 20__:

Year Prepaid

Principal Amount Prepaid

The registered owner of this obligation shall have no right to enforce the provisions of the Trust Agreement or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Trust Agreement.

The Trust Agreement and other documents referred to therein may be modified or amended to the extent permitted by and as provided therein. Certain amendments, modifications or changes which would affect the rights of registered owners of Series 2019 Obligations may be made only with the consent of the registered owners of this Obligation, as provided in the Trust Agreement. Any such consent by the registered owner of this obligation shall be conclusive and binding upon such registered owner and all subsequent registered owners. However, as to certain other amendments which will not materially adversely affect the interests of the registered owners, no consent of any owner shall be required.

The Series 2019 Obligations are and shall be executed and delivered only in fully registered form.

This obligation is transferable by the registered owner thereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner and subject to the limitations provided for in the Trust Agreement and upon surrender and cancellation of this obligation. Upon such transfer, a new Series 2019 Obligation or Series 2019 Obligations of the remaining aggregate principal amount payable at maturity will be executed and delivered to the transferee in exchange for such Series 2019 Obligation.

The Trustee may require a registered owner, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Trust Agreement in connection with any exchange or transfer.

The Trustee may treat the registered owner of this obligation as the absolute owner for the purpose of receiving payment as herein provided and for all other purposes and none of them shall be affected by any notice to the contrary.

As used herein, the term "owner" means the person who at the time of any payment of a Series 2019 Obligation is entitled under the terms of such Series 2019 Obligation to payment thereof.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the execution and delivery of this obligation have existed, have happened and have been performed in due form, time and manner as required by law.

IN TESTIMONY WHEREOF, this obligation has been executed and delivered by the Trustee, acting pursuant to the Trust Agreement.

Date:

ZIONS BANCORPORATION, NATIONAL
ASSOCIATION, as Trustee

By.....
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto
(Please Print or Typewrite Name, Address and Social Security Number or other Federal Tax Identification Number of Transferee) the within obligation and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within obligation on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

.....
(Signature guarantee should be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee).

.....
Notice: The signature(s) on this assignment must correspond with the name(s) as written on the face of the within obligation in every particular without alteration or enlargement or any change whatsoever.

The following abbreviations, when used in the inscription on the face of the within obligation, shall be construed as though they were written out in full according to applicable laws or regulations:

- | | |
|--|---|
| TEN COM -- as tenants in common | UNIF GIFT/TRANS MIN ACT --
(Cust.) |
| TEN ENT -- as tenants by the entireties | Custodian for Under Uniform
(Minor) |
| JT TEN -- as joint tenants with right of survivorship and not as tenants in common | Gifts/Transfers to Minors Act of
(State) |

Additional abbreviations may also be used, though not in the above list.

(END OF FORM OF SERIES 2019 OBLIGATION)