

RESOLUTION NO. 10002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, ADOPTING ISSUANCE AND POST-ISSUANCE COMPLIANCE PROCEDURES RELATING TO TAX-EXEMPT BONDS, OTHER TAX-EXEMPT FINANCINGS AND BUILD AMERICA BONDS (DIRECT PAY) FOR THE CITY OF MESA, ARIZONA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Mesa, Arizona (the "City") has issued tax-exempt bonds, other tax-exempt financings and Build America Bonds (Direct Pay) (collectively the "Bonds"); and

WHEREAS, federal tax law encourages the City to develop issuance and post-issuance compliance procedures related to the Bonds; and

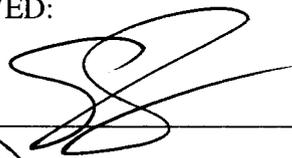
WHEREAS, the City desires to adopt written issuance and post-issuance compliance procedures related to the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, as follows:

Section 1. The City hereby adopts the Issuance and Post-Issuance Compliance Procedures Relating to Tax-Exempt Bonds, Other Tax-Exempt Financings and Build America Bonds (Direct Pay) for the City of Mesa, Arizona, attached hereto as Exhibit A.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Mesa, Maricopa County, Arizona, on April 2, 2012.

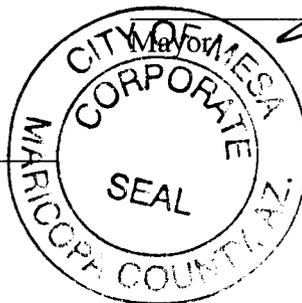
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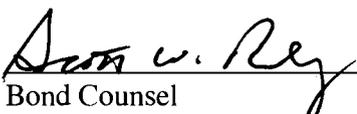
ATTEST:



City Clerk



APPROVED AS TO FORM:



Bond Counsel

EXHIBIT A

ISSUANCE AND POST-ISSUANCE COMPLIANCE PROCEDURES RELATING TO TAX-EXEMPT BONDS, OTHER TAX-EXEMPT FINANCINGS AND BUILD AMERICA BONDS (DIRECT PAY), FOR THE CITY OF MESA, ARIZONA

Date of Implementation: April 2, 2012

I. INTRODUCTION

Many conditions, restrictions and requirements must be complied with to permit and preserve the tax-exempt or direct federal subsidy treatment of bonds and other financings by the City of Mesa, Arizona (the "City"). Prior to issuance, the City and its bond counsel will review the facts and the reasonable expectations to determine if the issue will comply with these conditions, restrictions and requirements at the time of issuance. There certain actions the City must do after issuance to preserve the favorable tax treatment and certain actions of the City after issuance can adversely affect the tax treatment. In addition, the City must maintain proper records to demonstrate compliance. Because tax benefits may be critical to the investors' decision to purchase the bonds or other obligations, the City covenants to the bond purchasers to comply with all of the conditions, restrictions and requirements throughout the life of the bonds.

Failure to comply may cause the City to be (a) liable to the bondholders, (b) subject to enforcement action by the IRS, (c) subject to a loss of all or part of the direct federal subsidy, and (d) subject to enforcement action by the Securities Exchange Commission. Therefore, it is important that the City take the necessary action to ensure compliance with the conditions, restrictions and requirements applicable to each bond or other financing.

To ensure compliance, the City must identify a single person with overall compliance responsibility. The Controller will be the responsible person and is referred to in these procedures as the Bond Compliance Official. Anyone with any questions about the bonds, the proceeds of the bonds, the facilities financed with the bonds or compliance with the conditions, restrictions and requirements should discuss them with the Bond Compliance Official who shall, as necessary, discuss them with bond counsel. The Bond Compliance Official shall meet with bond counsel to discuss these requirements and from time to time any changes in these requirements. In the event

the City fails to comply with these procedures, the Bond Compliance Official shall meet with bond counsel as soon as practicable after the discovery of the failure to comply in order to discuss the steps required to correct the noncompliance.

1. INVESTMENT OF PROCEEDS UNTIL EXPENDED.

Detailed records of investments and earnings will be made and kept by the City with respect to all bond proceeds.

Generally, proceeds of bonds cannot be invested at a yield higher than the bond yield unless during certain specific temporary periods. Therefore, prior to closing, the Bond Compliance Official will determine with bond counsel which funds do or do not qualify for a temporary period. Qualifying information will be set out in a tax certificate. No proceeds will be invested at a yield higher than the bond yield unless they qualify. If the actual facts regarding the use of proceeds changes from what was reasonably expected at closing, the Bond Compliance Official will discuss those changes with bond counsel to see if the temporary periods are changed.

Bond proceeds include the amount received from the sale of the bonds, amounts held in a payment or reserve fund for the bonds *and investment earnings on those amounts*.

The proceeds will not be invested in any investment where a yield cannot be determined.

Any investment in a guaranteed investment contract or similar investment agreement will only be made in compliance with the bidding requirements as reviewed by bond counsel.

Bond proceeds will be invested so that they can be tracked separately from any other funds of the City. The City will work with the registrar, trustee or other applicable person or entity to be sure that invested earnings are properly allocated between bond proceeds and other funds.

2. USE OF PROCEEDS.

Detailed records will be made and kept by the City with regard to the use of bond proceeds. For each expenditure, the amount, date of and purpose will be recorded. If the project is also funded with non-bond proceeds, the records will reflect an allocation of expenditures between bond proceeds and other funds. No proceeds will be used to reimburse an expenditure made prior to the issue date of the bonds unless the reimbursement requirement, including the prior declaration of intent to reimburse, has been fully complied with and evidence of such compliance is maintained.

The City's Senior Executive Manager, or his or her designee, or the Controller, or his or her designee, is authorized to complete the declaration of intent to reimburse.

Under federal tax law, the City is expected to exercise diligence to expend the proceeds, to enter into within six months of the issue date a binding contract to expend at least 10% of the proceeds and to have expended most of the proceeds within three years. After the third anniversary of the issue, any remaining proceeds in the construction account must be yield restricted. Additionally, it is the City's policy that 95% of the proceeds must be spent within two years.

The Bond Compliance Official shall periodically review the progress of the projects and the expenditure of proceeds to ensure timely expenditure of proceeds.

3. USE OF BOND FINANCED FACILITIES.

Detailed records of the use of proceeds will identify those facilities that are financed in whole or in part with bond proceeds and must reflect the allocation of bond proceeds and other funds used. Any sale or lease to, or other agreement for use by, a private party in a trade or business can adversely affect the tax status of the bonds. The City will not sell or lease any bond financed property or enter into any agreement with non-governmental entities for use or management of any bond financed property without a thorough review by the Bond Compliance Official and bond counsel. While not a comprehensive list, the Bond Compliance Official will review the following types of transactions with bond counsel prior to entering into any agreement with non-governmental entities or persons: (a) the sale or lease of any bond financed property, (b) any management contracts with a food service provider, (c) any research agreements and (d) public-private partnerships. The Bond Compliance Official shall periodically review the use of all bond financed facilities to ensure compliance with the private use restrictions. In the event the City takes action that causes the bonds to meet the private business tests or private loan financing test, the Bond Compliance Official shall meet with bond counsel as soon as practicable after the issue is discovered to discuss the steps required to correct the noncompliance, including, if necessary, redeeming or defeasing all of the bonds that meet the private business tests or private loan financing test.

4. ARBITRAGE REBATE.

Any time that bond proceeds are permitted to be invested at a yield higher than the bond yield, the amount earned over the bond yield is arbitrage. With certain exceptions, the City is obligated to pay over (rebate) to the United States any arbitrage earned. The City will keep complete and accurate records of all investments of bond proceeds and all information supporting any applicable exceptions to the rebate requirement and will retain or ensure that the registrar or trustee has retained a professional rebate consultant to review the records and prepare a report so that the City or the registrar or trustee can make any necessary rebate payments. Unless exempt, the City must, at a minimum, make payments at every fifth anniversary of the issue and upon final payment. The Bond Compliance Official will review any exemption prior to each fifth anniversary and upon final payment to determine if any facts have changed which might eliminate the exemption.

5. RECORD RETENTION.

All records concerning the bond issue, including

- a) the transcript of the original proceedings,
- b) investment of proceeds,
- c) use and allocation of proceeds, including the declaration of intent to reimburse,
- d) non-governmental use of bond financed property,
- (e) payment of principal and interest on the bonds,
- f) the interest rate or rates on the bonds from time to time, if variable,
- g) compliance with reimbursement requirements,
- h) refunding of all or part of the bonds,
- i) payment of arbitrage rebate or information supporting any exemption to rebate, and
- j) evidence of compliance with special requirements for Build America Bonds (Direct Pay)

shall be kept for the life of the bonds plus three years (and in compliance with any State of Arizona records retention policies) and, if the bonds are refunded, for the life of all of the refunding bonds plus three years (and in compliance with any State of Arizona records retention policies).

6. SPECIAL REQUIREMENTS FOR BUILD AMERICA BONDS (DIRECT PAY).

For the City's Taxable Utility System Revenue Bonds, Series 2009, City's Taxable General Obligation Bonds, Series 2010 (Build America Bonds – Direct Pay), City's Taxable Utility Systems Revenue Bonds, Series 2010 (Build America Bonds – Direct Pay) and any future issues the City issues to refund its Build America Bonds, the following additional requirements will be met:

a) Capital Expenditure Requirement. All of the sales proceeds, including investment earnings, must be spent on capital expenditures (and not working capital) except that up to 2% of the proceeds can be spent on costs of issuance and proceeds can fund a reasonably required reserve fund. The Bond Compliance Official shall consult with bond counsel prior to issuance to determine that the 2% costs of issuance limit will not be exceeded, that any reserve fund complies with requirements, and that the balance of the sales proceeds will be spent on capital expenditures. The Bond Compliance Official will review all expenditures to ensure compliance.

b) De Minimus Premium. No Build America Bonds can be reoffered at an issue price which includes a premium which exceeds .25% of the stated redemption price at maturity, multiplied by the number of complete years to the earlier of maturity, mandatory redemption or first optional redemption date, if applicable. Prior to closing, the Bond Compliance Official shall review the pricing information with its bond underwriter to determine that this requirement has been complied with. The bond purchaser or underwriter will certify at the closing what the reoffering prices were reasonably expected to be to establish the amount of premium for each maturity.

c) Irrevocable Election. To qualify an issue as Build America Bonds, the City must make an irrevocable election to have Section 54AA (BABs) and Section 54AA(g) (BABs Direct Pay) of the Code apply to the bonds. The Bond Compliance Official shall ensure that the elections have been made and are evidenced in the transcript at the time of closing.

d) Authorize Mayor, City Council, Senior Executive Manager and Controller to Act. The Authorizing Resolution must authorize the Mayor, City Council, Senior Executive Manager and Controller or other authorized person to do all things necessary to take any action within its power and authority which would, other than as a result of the application of Section 54AA(g) of the Code, prevent the interest income on the bonds from becoming includable in gross income for federal income tax purposes and to do all things necessary to continue to qualify as BABs – Direct Pay under Sections 54AA and 54AA(g) to receive the direct subsidy payment. The

Bond Compliance Official shall ensure that such authorization has been granted and is evidenced in the transcript at the time of closing.

e) Filing for Subsidy. An 8038-B will be prepared by bond counsel, executed by the Bond Compliance Official or other authorized signer, filed promptly after the closing and included in the transcript. For each interest payment, the Bond Compliance Official will prepare, sign and file an 8038-CP to request the payment of the direct pay credit from the United States. With respect to fixed rate bonds, the form must be filed not more than 90 days and not less than 45 days prior to the interest payment date. With respect to variable interest rate bonds, the credit payment will be aggregated on a quarterly basis and the 8038-CP must be filed for reimbursement in arrears not more than 45 days after the last interest payment date within that quarter.

Prior to closing, the City will determine to whom the credit payment will be sent and will obtain the necessary information to properly direct the payment.