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SAN LUIS, ARIZONA 85349**

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**CAPTION HEADING:**

Resolution No. 1072:

Approving the sale and execution and delivery of pledged excise tax revenue refunding  
obligation-Bond Refinancing Series 2014

**RECEIVED**

NOV 3 2014

**City of San Luis**  
M Lopez



# *Resolution*

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

NO. 1072

RESOLUTION OF THE MAYOR AND COUNCIL OF CITY OF SAN LUIS, ARIZONA, APPROVING THE SALE AND EXECUTION AND DELIVERY OF PLEDGED EXCISE TAX REVENUE REFUNDING OBLIGATIONS IN ONE OR MORE SERIES EVIDENCING A PROPORTIONATE INTEREST OF THE OWNERS THEREOF IN A FIRST EXCISE TAX PURCHASE AGREEMENT TO REFUND CERTAIN BONDS OF THE SAN LUIS CIVIC IMPROVEMENT CORPORATION; APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO LOAN REPAYMENT AGREEMENT WITH THE GREATER ARIZONA DEVELOPMENT AUTHORITY, SUCH PURCHASE AGREEMENT, A FIRST EXCISE TAX TRUST AGREEMENT, AN ESCROW TRUST AGREEMENT, A CONTINUING DISCLOSURE UNDERTAKING, AN OBLIGATION PURCHASE CONTRACT AND OTHER NECESSARY AGREEMENTS; DELEGATING AUTHORITY TO THE MAYOR, MANAGER AND FINANCE DIRECTOR OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION AND DECLARING AN EMERGENCY

**WHEREAS**, the Mayor and Council of the City of San Luis, Arizona (the “City”), have determined to refinance certain payments due pursuant to the Leaseback Agreement, dated as of October 1, 2005 (the “Leaseback Agreement”), to the San Luis Civic Improvement Corporation (the “Corporation”) with respect to (i) financing certain improvements to the water and wastewater system of the City and the cost of constructing a new City Complex and (ii) refunding certain obligations of the Corporation (together, the “Prior Project”), by entering into a First Excise Tax Purchase Agreement, to be dated as of the first day of the month of the dated date of the hereinafter described Obligations established as provided herein (the “Purchase Agreement”), with an entity to be determined by the Manager or Finance Director of the City (the “Trustee”), in its separate capacity as “Seller”; and

**WHEREAS**, the payments due from the City pursuant to the Leaseback Agreement secure certain payments due with respect to the Municipal Facilities Excise Tax Revenue Bonds, Series 2005 of the Corporation (the “Bonds”); and

**WHEREAS**, in order to finance and/or refinance the costs of the acquisition and renovation of a building containing approximately 84,000 rentable square feet and purchase of land; reimbursement for cost overruns associated with miscellaneous capital improvements for the City; funding deposits, if any, to an agreement reserve fund; and paying costs and expenses incidental and related to the sale and issuance of bonds (collectively, the “2009 Project”), the City borrowed \$13,750,000 from the Greater Arizona Development Authority (“GADA”), pursuant to the Loan Repayment Agreement, dated as of February 1, 2009 (the “Loan Agreement”), by and between the City and GADA;

**WHEREAS**, Section 6 of the Loan Agreement provides that “So long as amounts due [under the Loan Agreement] remain unpaid or unprovided for, the City shall not pledge the revenues from the Excise Taxes and the State Shared Revenues to the repayment of any obligations without the consent of GADA, such consent to not be unreasonably withheld”; and

**WHEREAS**, GADA has consented to a pledge of the revenues from the Excise Taxes and the State Shared Revenues under certain circumstances on a parity with the pledge pursuant to the Loan Agreement;

**WHEREAS**, for such purpose, the City and GADA are entering into the First Amendment to Loan Repayment Agreement, to be dated the date of the Purchase Agreement (the “Amendment”); and

**WHEREAS**, in connection with the Purchase Agreement, the Mayor and Council of the City have deemed it necessary and desirable to provide for the sale and execution and delivery of pledged revenue refunding obligations in one or more series, provided for by this Resolution (the “Obligations”), evidencing proportionate interests of the owners of the Obligations in payments to be made by the City to the Trustee pursuant to the First Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations (the “Trust Agreement”), between the Trustee and the City, such payments to be made pursuant to the Purchase Agreement; and

**WHEREAS**, the payments represented by the Obligations will be secured by amounts received under the Purchase Agreement pursuant to which the City will pledge the revenues from the Excise Taxes and State Shared Revenues (as such terms are defined in the Trust Agreement); and

**WHEREAS**, the Mayor and Council of the City will receive a proposal from Stifel, Nicolaus & Company, Incorporated, serving in the capacity of and designated as the underwriter (the “Underwriter”), and not acting as a municipal advisor as defined in the “Registration of Municipal Advisors” rule promulgated by the United States Securities and Exchange Commission, and has determined that the Obligations should be sold through negotiation to the Underwriter; and

**WHEREAS**, there have been presented to the Mayor and Council of the City at the meeting at which this Resolution is being adopted (1) the proposed form of the Amendment; (2) the proposed form of the Purchase Agreement; (3) the proposed form of the Trust Agreement; (4) the proposed form of an Escrow Trust Agreement, to be dated as of the first day

of the month of the dated date of the Obligations (the "Escrow Trust Agreement"), with the Trustee, in its separate capacity as escrow trustee (the "Escrow Trustee"), for the establishment of an escrow to defease all of the Bonds which financed the Prior Project; (5) the proposed form of a Continuing Disclosure Undertaking, to be dated the date of delivery of the Obligations (the "Undertaking"), from the City necessary for purposes of compliance with Securities and Exchange Commission Rule 15c2-12; (6) the proposed form of the Obligation Purchase Contract, to be dated the date of the sale of the Obligations (the "Purchase Contract"), by and between the City and the Underwriter, for the purchase of the Obligations and (7) the proposed form of the Preliminary Official Statement, to be dated the date of the dissemination thereof (the "Preliminary Official Statement"), relating to the Obligations, which, as to be revised after the sale of the Obligations, shall constitute the Official Statement, to be dated the date of sale of the Obligations (the "Official Statement"), relating to the Obligations; and

**WHEREAS**, refinancing the costs of the Prior Project pursuant to the Purchase Agreement is in furtherance of the purposes of the City and in the public interest;

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, THAT:**

Section 1. (a) The execution and delivery of the Obligations in one or more tax-exempt and/or taxable series by the Trustee is approved.

(b) The Manager or Finance Director of the City are each authorized to determine on behalf of the City the series name and designation of the Obligations; whether the interest income on each series of the Obligations will be tax-exempt or taxable for federal income tax purposes; the date the Obligations are to be sold to the Underwriter; the entity which will serve as the Trustee with respect to the Obligations; the total aggregate principal amount of the Obligations which are to be executed and delivered; the date the Obligations are to be dated; the dates on which interest on the Obligations is to be payable and the interest rates per annum the Obligations are to bear; the dates the Obligations are to mature, the principal amounts to mature on such dates and the provisions for prepayment thereof in advance of such dates; the provision for redemption of the Bonds (including the amounts and dates of redemption thereof), the provision for credit enhancement including the funding of a debt service reserve fund and the terms upon which the Obligations are to be sold to the Underwriter (including determinations of price, original issue discount and premium and underwriting compensation); provided, however, that the foregoing determinations shall result in present value savings net of all costs of issuance of at least two and one-half percent (2.5%) of the principal amount of the Bonds.

(c) The Manager and Finance Director of the City are further each authorized to determine on behalf of the City whether the purchase of an insurance policy securing payment of the Obligations or, if a debt service reserve fund is to be funded, a surety bond or other reserve fund guaranty which would be a "qualified guarantee" for purposes of the Code would be advantageous to the City or the terms of the financing represented by the Obligations. The Manager and Finance Director of the City are each authorized to negotiate with and secure, with proceeds of the Obligations or otherwise, such an insurance policy or a reserve fund guaranty, or both, from one or more institutions, the claims-paying ability of which are then assigned one of the two highest rating categories by a nationally recognized credit rating agency.

The Mayor, Manager and Finance Director of the City are each authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such insurance policy and/or reserve fund guaranty, including those making provision for the repayment of amounts advanced by the institutions issuing such insurance policy and/or reserve fund guaranty.

(d) The forms and other terms of the Obligations, including the provisions for the signatures, authentication, payment, registration, transfer, exchange, prepayment and number shall be as set forth in the Trust Agreement and are approved.

Section 2. The Obligations are to be sold to the Underwriter pursuant to the terms of the Purchase Contract as such terms are to be determined as provided hereinabove.

Section 3. The form, terms and provisions of the Amendment, the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract and the Undertaking, in substantially the forms of such documents (including the Obligations and other exhibits thereto) presented at the meeting of the Mayor and Council of the City at which this Resolution is being adopted are approved, with such final provisions, insertions, deletions and changes as determined as provided hereinabove and shall be approved by the Mayor of the City, any other member of the Council, and, in the case of the Purchase Contract, the Manager of the City, the execution of each such document being conclusive evidence of such approval, and the Mayor of the City or any other member of the Council and, in the case of the Purchase Contract, the Manager of the City, or the Clerk of the City, where applicable, are authorized and directed, for and on behalf of the City, to execute and deliver and attest or approve the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract and the Undertaking and to take all action to carry out and comply with the terms of such documents.

Section 4. The distribution of the Preliminary Official Statement by the Underwriter is approved, and the Final Official Statement in substantially the form of the Preliminary Official Statement, with such changes or revisions therein from the form of the Preliminary Official Statement as may be approved by the Mayor of the City or any other member of the Council executing the same, is approved, and the Mayor of the City or any other member of the Council is authorized, empowered and directed, in the name and on behalf of the City, to execute and deliver the same to the Underwriter and to execute and deliver instruments confirming that the Preliminary Official Statement is "deemed final" in accordance with Securities and Exchange Commission Rule 15(c)2-12.

Section 5. The Trustee (including in its separate capacities as Seller and the Escrow Trustee) is requested to take any and all action necessary in connection with the execution and delivery of the Amendment, the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract and the Undertaking and the sale and execution and delivery of the Obligations and is further authorized and directed to take such action as may be reasonable for the administration of the trusts so held by it.

Section 6. The covenants and agreements contained the Purchase Agreement as to the pledge of and the lien on the revenues from the Excise Taxes and State Shared Revenues and the restriction on the issuance of further parity obligations secured by the revenues from the Excise Taxes and State Shared Revenues are approved and confirmed.

Section 7. The Mayor, the Manager, the Finance Director and other officers of the City, on behalf of the City, are authorized and directed, without further order of the Mayor and Council of the City, to do all such acts and things and to execute and deliver all such certificates, proceedings, agreements and other documents as may be necessary or convenient to be executed and delivered on behalf of the City, to evidence compliance with, or further the purposes of, all the terms and conditions of this Resolution and the consummation of the transactions contemplated by the Preliminary Official Statement and the Official Statement and as may be necessary to carry out the terms and intent of this Resolution.

Section 8. All actions of the officers and agents of the City which conform to the purposes and intent of this Resolution and which further the sale and execution and delivery of the Obligations as contemplated by this Resolution, whether heretofore or hereafter taken, are ratified, confirmed and approved.

Section 9. If any section, paragraph, clause or phrase of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or phrase shall not affect any of the remaining provisions of this Resolution. All orders, resolutions and ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, resolution or ordinance or any part thereof.

Section 10. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, particularly to refinance the Prior Project on the most attractive terms available to the City, and an emergency is hereby declared to exist, and this Resolution will be in full force and effect from and after its passage by the Mayor and Council of the City and it is hereby excepted from the referendum provisions of the Constitution and laws of the State of Arizona. After any of the Obligations are delivered by the Trustee to the Underwriter and upon receipt of payment therefor, this Resolution shall be and remain irrevocable until the Obligations and the interest and premium, if any, thereon shall have been fully paid, cancelled and discharged.

PASSED AND ADOPTED by the Council and approved by the Mayor of the City of San Luis, Arizona, this 22nd day of October, 2014.



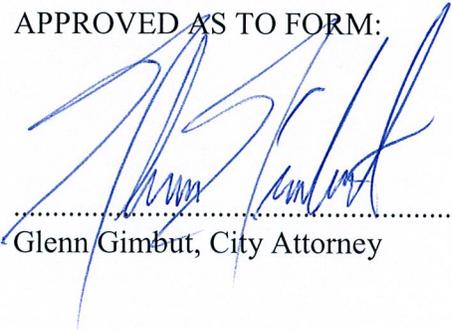
Gerardo Sanchez, Mayor

ATTEST:



Sonia Cornelio, City Clerk

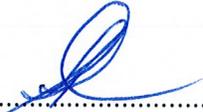
APPROVED AS TO FORM:



Glenn Gimbut, City Attorney

CERTIFICATION

I hereby certify that the foregoing Resolution No. 1072 was duly passed and adopted by the Mayor and Council of the City of San Luis, Arizona, at a regular meeting held on the 22nd day of October, 2014, and the vote was 6 ayes and 0 nays.



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Sonia Cornelio, City Clerk

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**FIRST EXCISE TAX PURCHASE AGREEMENT**

by and between

\_\_\_\_\_,  
as Seller

and

**THE CITY OF SAN LUIS, ARIZONA,**  
as Purchaser

Dated as of \_\_\_\_\_ 1, 2014

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## FIRST EXCISE TAX PURCHASE AGREEMENT

THIS FIRST EXCISE TAX PURCHASE AGREEMENT, dated as of \_\_\_\_\_ 1, 2014 (this "Agreement"), by and between the CITY OF SAN LUIS, ARIZONA, a municipal corporation under the laws of the State of Arizona (the "City"), as purchaser hereunder, and \_\_\_\_\_, a national banking association, as trustee under the First Excise Tax Trust Agreement, dated as of even date herewith (the "Trust Agreement"), but in its separate capacity as seller (the "Seller") hereunder,

### W I T N E S S E T H:

WHEREAS, the City heretofore determined that it would be beneficial to its citizens to finance and refinance the costs of the acquisition and construction of certain improvements in the City (the "Prior Project"); and

WHEREAS, in order to finance and refinance the costs thereof, the City of San Luis Civic Improvement Corporation (the "Corporation") issued its Municipal Facilities Excise Tax Revenue Bonds, Series 2005, in the aggregate principal amount of \$40,000,000 pursuant to that certain Trust Indenture, dated as of October 1, 2005, between the Corporation and U.S. Bank National Association, as trustee; and

WHEREAS, in connection therewith, the Corporation entered into a Leaseback Agreement, dated as of October 1, 2005 (the "Leaseback Agreement"), with the City, whereby the City leases back from the Corporation the Prior Project; and

WHEREAS, the lease payments and other amounts due under the Leaseback Agreement to be made by the City are secured by a pledge of the Excise Taxes and the State Shared Revenues (as such terms and all other terms not otherwise defined herein are defined in the Trust Agreement); and

WHEREAS, the City heretofore determined that it would be beneficial to its citizens to finance and/or refinance the costs of acquiring and renovating a building and related site and reimbursing cost overruns associated with certain capital improvements; and

WHEREAS, in order to finance the costs thereof, the City deemed it necessary and desirable to borrow \$13,750,000 from the Greater Arizona Development Authority, a body corporate and politic constituting a governmental instrumentality duly organized and existing within the State of Arizona under the Constitution and laws of the State of Arizona ("GADA"); and

WHEREAS, in connection therewith, the City and GADA entered into a Loan Repayment Agreement, dated as of February 1, 2009 (the "Original Loan Repayment Agreement (2009)"); and

WHEREAS, pursuant to Section 3 of the Original Loan Repayment Agreement (2009), the City irrevocably pledged for the payment of the amounts due thereunder the revenues

from the Excise Taxes and the State Shared Revenues, such pledge being a second lien pledge upon such amounts of the revenues from the Excise Taxes and the State Shared Revenues, subordinate to the pledge of the revenues from the Excise Taxes and the State Shared Revenues for payment of the amounts due under the Leaseback Agreement, as will be sufficient to make the payments pursuant thereto when due; and

WHEREAS, pursuant to such Section of the Original Loan Repayment Agreement (2009), except as limited by Section 10(a)(iii) of the Original Loan Repayment Agreement (2009) and by the corresponding sections in any Additional Agency/Authority Loan Agreements, the rights of GADA to payment from the revenues the Excise Taxes and the State Shared Revenues are on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of the Original Loan Repayment Agreement (2009) and of the other of the Parity Lien Obligations; and

WHEREAS, however, pursuant to Section 6 of the Original Loan Repayment Agreement (2009), so long as any amounts due thereunder remain unpaid or unprovided for, the City may not pledge the revenues from the Excise Taxes and the State Shared Revenues to the repayment of any obligations without the consent of GADA, such consent to not be withheld unreasonably; and

WHEREAS, the City heretofore requested that, if the lease payments and other amounts due under the Leaseback Agreement were paid in full or irrevocable provision for such payment pursuant thereto was made, GADA consent to a pledge of the revenues from the Excise Taxes and the State Shared Revenues under certain circumstances on a parity with the pledge pursuant to the Original Loan Repayment Agreement (2009);

WHEREAS, pursuant to the First Amendment to Loan Repayment Agreement, dated as of \_\_\_\_\_ 1, 2014, between GADA and the City amending the Original Loan Repayment Agreement (2009), GADA consented to a pledge of the revenues from the Excise Taxes and the State Shared Revenues to the payment of all amounts described in Subsection 1(b) hereof (including the Payments) on a parity with the pledge pursuant to the Original Loan Repayment Agreement (2009) (as so amended, the "Loan Repayment Agreement (2009)"); and

WHEREAS, Section 10(a) of the Loan Repayment Agreement (2009) provides that GADA may in the case of nonpayment, among other things, certify to the Treasurer of the State and notify the Mayor and Council of the City that the City has failed to make a required payment and request enforcement of the State Intercept of Funds, and Additional Agency/Authority Loan Agreements may provide that GADA or WIFA provide for enforcement of the State Intercept of Funds; and

WHEREAS, pursuant to Resolution No. \_\_\_\_ adopted on October 22, 2014, the Mayor and Council of the City determined to refinance the lease-purchase of the Prior Project; and

WHEREAS, for the purpose of refinancing the lease-purchase of the Prior Project, the Mayor and Council of the City requested that the Trustee sell and execute and deliver the Obligations; and

WHEREAS, this Agreement is a Parity Lien Obligation; and

WHEREAS, the City is a municipal corporation duly incorporated and validly existing under the laws of the State; the Constitution and the laws of the State authorize the City to enter into this Agreement and the transactions contemplated by this Agreement; the City has duly authorized and executed this Agreement; this Agreement is a lawful, valid and binding obligation of the City, enforceable against the City in accordance with its terms; all required procedures for execution and performance of this Agreement, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes; neither the execution and delivery of this Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City; the City has disclosed in writing to the Seller all facts that do or will materially adversely affect the properties, operations or financial condition of the City and that any financial statements, notices or other written statements provided by the City to the Seller pursuant hereto will not contain any untrue statement of a material fact or omit any material fact necessary to make such statements or information not misleading and the Prior Project complies with all applicable environmental laws, rules and regulations (including, without limitation, all federal, state and local laws) and with Title III of the Americans with Disabilities Act and the regulations issued thereunder by the United States Department of Justice concerning accessibility of places of public accommodation and commercial facilities if and to the extent such Act and regulations apply to the Prior Project; and

WHEREAS, the Seller has full legal authority and is duly empowered to enter into this Agreement and has taken all actions necessary to the execution and delivery hereof;

NOW THEREFORE, pursuant to law and for and in consideration of the mutual covenants hereinafter contained, it is hereby agreed as follows:

*Section 1. Term and Payments.*

(a) In order to refinance the costs of the Prior Project which have not been paid to date pursuant to the terms hereof, the City hereby sells and conveys any interests it has in the Prior Project to the Seller, without warranty, for the sum of \$10.00 and other valuable consideration had and received. For the amounts payable pursuant hereto (including the Payments), the Seller in turn hereby sells and conveys back to the City, without recourse, representation or warranty, and the City hereby purchases from the Seller, any interests the Seller has in the Prior Project. (The City acknowledges that the right of the Trustee to sell the Prior Project arises out of the deposit pursuant to the Escrow Trust Agreement for the benefit of the City).

(b) As the purchase price, the City shall pay the Payments to the Seller. (The Interest Portion is interest for purposes of the Code.)

The City shall also pay to the Seller its fees and expenses in accordance with the provisions of the Trust Agreement.

The City shall further also pay all amounts necessary for compliance with the Continuing Disclosure Undertaking.

After paying all amounts due for principal and interest hereunder and pursuant to the Loan Repayment Agreement (2009) and Parity Lien Obligations, the City shall also pay (i) on the June 15 following the Fiscal Year in which the Debt Service Coverage is three (3) times or less and each December 15 and June 15 thereafter, an amount equal to one tenth (1/10) of the amount required to fund and maintain the Debt Service Reserve Fund in an amount equal to the Reserve Requirement until such time as the amount on deposit in the Debt Service Reserve Fund shall equal the Reserve Requirement and (ii) on the fifteenth (15th) day of each month, commencing on the first (1st) day of the month following a payment made on the Obligations from the Debt Service Reserve Fund, an amount equal to one-twelfth (1/12) of the amount which, when added to the balance then in the Debt Service Reserve Fund, shall be equal to the Reserve Requirement. The Debt Service Coverage for each Fiscal Year shall be calculated by the City Representative and certified to the Trustee by the City Representative prior to or on the December 15 following such Fiscal Year.

(c) This Agreement shall be deemed and construed to be a “*net purchase agreement*,” and the Payments shall be an absolute net return to the Seller, free and clear of any expenses or charges whatsoever, except as otherwise specifically provided herein. The obligation of the City to pay the amounts described in paragraph (b) hereof (including the Payments) from the sources described herein and to comply with the other provisions hereof shall be absolute and unconditional and shall not be subject to any defense or any right of set-off, abatement, counterclaim, or recoupment arising out of any breach by the Seller of any obligation to the City or otherwise, or out of indebtedness or liability at any time owing to the City by the Seller. Until such time as all of the payments described in paragraph (b) hereof (including the Payments) shall have been fully paid or provided for, the City (i) shall not suspend or discontinue the same, (ii) shall comply with the other provisions hereof and (iii) shall not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Prior Project, the taking by *eminent domain* of title to or temporary use of any or all of the Prior Project, commercial frustration of purpose, abandonment of the Prior Project by the City, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of the Seller to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Trust Agreement or this Agreement. Nothing contained in this Section shall be construed to release the Seller from the performance of any of the agreements on its part herein or in the Trust Agreement contained and in the event the Seller shall fail to perform any such agreements on its part, the City may institute such action against the Seller as the City may deem necessary to compel performance so long as such action does not abrogate the obligations of the City contained in the first sentence of this paragraph.

(d) Any of the payments described in paragraph (b) hereof (including the Payments) due on a day which is not a Business Day may be made on the next Business Day and will be deemed to have been made on the date due.

(e) Amounts payable to the Seller shall be paid by means instructed to the City in writing.

*Section 2. Pledge; Limited Obligations.*

(a) Subject to the State Intercept of Funds with regard to the Loan Repayment Agreement (2009) and the other of the Parity Lien Obligations which are also Additional Agency/Authority Loan Agreements, the revenues from the Excise Taxes and the State Shared Revenues have been pledged by the City to the payment of all amounts described in Subsection 1(b) hereof (including the Payments), and payment of such amounts shall be secured by a paramount and first lien on and pledge of the revenues from the Excise Taxes and the State Shared Revenues on parity with the pledge and lien hereby granted by the City for the payment and security of the Loan Repayment Agreement (2009) and the other of the Parity Lien Obligations. All of the Payments are coequal as to the pledge of and lien on the revenues from the Excise Taxes and the State Shared Revenues and share ratably, without preference, priority or distinction, as to the source or method of payment from the revenues from the Excise Taxes and the State Shared Revenues or security therefor.

(b) The City shall remit to the Seller from the revenues from the Excise Taxes and the State Shared Revenues all amounts due under this Agreement in the amounts and at the times and for the purposes as required herein. The obligation of the City to make payments of any amounts due under this Agreement, including amounts due after default hereof, is limited to payment from the revenues from the Excise Taxes and the State Shared Revenues and shall under no circumstances constitute a general obligation or a pledge of the full faith and credit of the City, the State or any of its political subdivisions, or require the levy of, or be payable from the proceeds of, any *ad valorem* property taxes.

(c) The City may, at the sole option of the Mayor and Council of the City, make payments due pursuant to Section 1 hereof from its other funds as permitted by law and as the City shall determine from time to time, but the Seller acknowledges that it has no claim hereunder to such other funds. No part of the purchase price payable pursuant to this Agreement shall be payable out of any *ad valorem* property taxes imposed by the City or from bonds or other obligations, the payment of which the City's general taxing authority is pledged, unless (i) the same shall have been duly budgeted by the City according to law, (ii) such payment or payments shall be within the budget limitations of the statutes of the State and (iii) any such bonded indebtedness or other obligation are within the debt limitations of the Constitution of the State.

*Section 3. Surplus and Deficiency of the Revenues from the Excise Taxes and the State Shared Revenues.* Subject to the rights with respect to the revenues from the Excise Taxes and the State Shared Revenues with respect to the Loan Repayment Agreement (2009) and the other of the Parity Lien Obligations, the revenues from the Excise Taxes and the State Shared Revenues in excess of amounts, if any, required to be deposited with or held by the Seller for

payments due under this Agreement shall constitute surplus revenues and may be used by the City for any lawful purpose for the benefit of the City, including the payment of obligations to which the revenues from the Excise Taxes and the State Shared Revenues may from time to time be pledged on a basis subordinate hereto. If at any time the moneys in the funds held for payment of amounts due under this Agreement are not sufficient to make the deposits and transfers required, any such deficiency shall be made up from the first moneys thereafter received and available for such transfers under the terms of this Agreement and, with respect to payment from the revenues from the Excise Taxes and the State Shared Revenues, *pro rata*, with amounts due with respect to the Loan Repayment Agreement (2009) and the other of the Parity Lien Obligations, and the transfer of any such sum or sums to said fund as may be necessary to make up any such deficiency shall be in addition to the then-current transfers required to be made pursuant hereto.

*Section 4. Parity Lien Obligations.* The City shall not encumber the revenues from the Excise Taxes on a basis prior or paramount to the lien and pledge provided for under Section 2(a) hereof. So long as any amounts due hereunder remain unpaid or unprovided for, the City shall not further encumber the revenues from the Excise Taxes and the State Shared Revenues on a basis equal to the pledge hereunder unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed fiscal year of the City, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding fiscal year of the City for the Loan Repayment Agreement (2009), this Agreement and the other of the Parity Lien Obligations secured or so proposed to be secured by such pledge of the revenues from the Excise Taxes and the State Shared Revenues on a parity of lien therewith. For purposes of this Section, any variable rate indebtedness shall be assumed to bear interest at the maximum permissible rate.

*Section 5. City Control over Revenue Collection.* To the extent permitted by applicable law, the revenues from the Excise Taxes shall be retained and maintained so that the amounts received from the revenues from the Excise Taxes and the State Shared Revenues, when combined mathematically for such purpose only, all within and for the most recently completed fiscal year of the City, shall have been equal to at least two (2) times the total of interest and principal requirements for the current fiscal year of the City for the Loan Repayment Agreement (2009), this Agreement and the other of the Parity Lien Obligations. If the revenues from the Excise Taxes and the State Shared Revenues for any such fiscal year shall not have been equal to at least one and one-quarter (1-1/4) times the total of the interest and principal requirements for the current fiscal year of the City for the Loan Repayment Agreement (2009), this Agreement and the other of the Parity Lien Obligations or if at any time it appears that the revenues from the Excise Taxes and the State Shared Revenues will not be sufficient to meet such requirements, the City shall, to the extent permitted by applicable law, impose new exactions of the type of the Excise Taxes which will be part of the Excise Taxes or increase the rates for the Excise Taxes currently imposed fully sufficient at all times, after making allowance for contingencies and errors, in each fiscal year of the City in order that (a) the revenues from the Excise Taxes and the State Shared Revenues will be sufficient to meet all current requirements hereunder and (b) the revenues from the Excise Taxes and the State Shared Revenues will be reasonably calculated to attain the level as required by the first sentence of this subsection.

*Section 6. Certain Matters with Respect to the Prior Project.*

(a) Except with respect to its power and authority to enter into this Agreement and to perform its covenants hereunder, the Seller has made and makes no representation or warranty, express or implied, and assumes no obligation with respect to the title, merchantability, condition, quality or fitness of the Prior Project for any particular purpose or the conformity of the Prior Project to any plans, specifications, construction contract, purchase order, model or sample, or as to their design, construction, delivery, installation, construction oversight and operation or their suitability for use by the City after completion. All such risks shall be borne by the City without in any way excusing the City from its obligations under this Agreement, and the Seller shall not be liable to the City for any damages on account of such risks. Except with respect to any acts by the Seller which are not undertaken at the request of the City or with the prior approval of the City, the City waives all claims against the Seller growing out of the acquisition of the Prior Project. The Seller shall have no liability to the City for any failure of any contractor to perform any contract or other undertaking with respect to the Prior Project in any respect. The Seller shall have no obligation to obtain or insure compliance with any required permits or approval procedures with respect to the Prior Project. In the event of any defect in any item of the Prior Project or other claim with respect to the Prior Project, recourse of the City shall be against the contractors, manufacturers, suppliers, etc. of the Prior Project and, where applicable, the person selling the property to the Seller, and not against the Seller. For such purpose, the Seller hereby assigns and transfers to the City the right, title and interest of the Seller in and to all representations, warranties, guarantees and service agreements relating to the Prior Project made or entered into by the Seller and by any contractor, manufacturers, suppliers, etc. of the Prior Project. The Seller further designates the City as its attorney-in-fact granting to the City the right to initiate and take all actions necessary to enforce any and all construction contracts and all such warranties and service agreements. The Seller is entering into this Agreement solely as the Seller, shall not be personally liable hereunder and shall be afforded the same rights, protections, immunities and indemnities acting hereunder as afforded to it as the Trustee under the Trust Agreement. Notwithstanding anything to the contrary herein, at no time shall the Seller be listed in the chain of title to the Prior Project. Provisions governing the rights, immunities and protections of the Trustee under the Trust Agreement are herein incorporated by reference into this agreement as though fully set forth herein.

(b) The City, by keeping and performing the covenants and agreements herein contained, shall at all times during the term of this Agreement, peaceably and quietly, have, hold and enjoy the Prior Project, without suit, trouble or hindrance from the Seller. The City hereby grants and conveys to the Seller, and all persons claiming by, through or under the Seller, including its successors and assigns under the Trust Agreement and the Owners for whom it acts, a nonexclusive easement upon, in and to the Prior Project for the purpose of permitting the Prior Project to be maintained upon the premises.

(c) Notwithstanding any other terms or provisions of this Agreement, the interest of the Seller in the Prior Project is solely in its capacity as the Seller for the refinancing of the Prior Project, and the Seller shall not have the power, authority or obligation to assume any responsibility for the overall management or maintenance of the Prior Project,

including, without limitation, any day-to-day decision-making or operational aspects of the Prior Project.

*Section 7. Providing for Payment.* The City may provide for the payment of the Payments in any one or more of the following ways:

(a) by paying the Payments as provided herein as and when the same become due and payable at their scheduled due dates pursuant to Section 1 hereof or on a date on which they can be prepaid;

(b) by depositing with a Depository Trustee, in trust for such purposes, money which, together with the amounts then on deposit with the Seller and available for the Payments is fully sufficient to make, or cause to be made, the Payments at their scheduled due dates or on a date on which they can be prepaid or

(c) by depositing with a Depository Trustee, in trust for such purpose, any Defeasance Obligations which are noncallable, in such amount as shall be certified to the Seller and the City, by a national firm of certified public accountants acceptable to both the Seller and the City, as being fully sufficient, together with the interest to accrue thereon and moneys then on deposit with the Seller and available for the Payments, to make, or cause to be made, the Payments at their scheduled due dates or on a date on which they can be prepaid.

Upon any partial prepayment of a Payment, each installment of interest which shall thereafter be payable as a part of the subsequent Payments shall be reduced, taking into account the interest rate or rates on the Obligations remaining outstanding after the partial prepayment so that the interest remaining payable as a part of the subsequent Payments shall be sufficient to pay the interest on such outstanding Obligations when due.

*Section 8. Term of Agreement.* This Agreement shall not terminate so long as any payments are due and owing pursuant to the Obligations. Subject to Section 7 hereof, upon full payment or provision for payment and in consideration of the timely payment of all of the amounts described in Subsection 1(b) hereof (including the Payments) and provided that the City has performed all the covenants and agreements required by the City to be performed, this Agreement shall cease and expire. The obligations of the City under this Agreement, including, without limitation, its obligation to pay the Payments, shall survive any action brought as provided in the next Section hereof, and the City shall continue to pay the Payments and perform all other obligations provided in this Agreement; provided, however, that the City shall be credited with any amount received by the Seller pursuant to actions brought under the next Section hereof.

*Section 9. Default; Remedies Upon Default.*

(a) (i) Upon (A) the nonpayment of the whole or any part of any of the amounts described in Subsection 1(b) hereof (including the Payments) at the time when the same are to be paid as provided herein or in the Trust Agreement, (B) the violation by the City of any other covenant or provision of this Agreement or the Trust Agreement, (C) the occurrence of an event of default with respect to the Loan Repayment

Agreement (2009) or the other of the Parity Lien Obligations or (D) the insolvency or bankruptcy of the City as the same may be defined under any law of the United States of America or the State, or any voluntary or involuntary action of the City or others to take advantage of, or to impose, as the case may be, any law for the relief of debtors or creditors, including a petition for reorganization, and

(ii) if such default has not been cured (A) in the case of nonpayment of any of the amounts described in Subsection 1(b) hereof (including the Payments) as required hereunder or under the Trust Agreement on the due date or the nonpayment of principal or interest due with respect to the Loan Repayment Agreement (2009) or the other of the Parity Lien Obligations on their due dates; (B) in the case of the breach of any other covenant or provision of the Trust Agreement or this Agreement not cured within sixty (60) days after notice in writing from the Seller specifying such default and (C) in the case of any other default under the Loan Repayment Agreement (2009) or the other of the Parity Lien Obligations after any notice and passage of time provided for under the proceedings under which such obligations were issued then,

(iii) subject to the limitations of the Trust Agreement and the Continuing Disclosure Undertaking, the Seller may take whatever action at law or in equity, including the remedy of specific performance, may appear necessary or desirable to collect the Payments and any other amounts payable by the City under the Trust Agreement or this Agreement then due (but not the Payments and such other amounts accruing), or to enforce performance and observance of any pledge, obligation, agreement or covenant of the City under the Trust Agreement or this Agreement, and with respect to the revenues from the Excise Taxes and, subject to the State Intercept of Funds with regard to the Loan Repayment Agreement (2009) and the other of the Parity Lien Obligations which is also an Additional Agency/Authority Loan Agreement, the State Shared Revenues, without notice and without giving any bond or surety to the City or anyone claiming under the City, have a receiver appointed of the revenues from the Excise Taxes and, subject to the State Intercept of Funds with regard to the Loan Repayment Agreement (2009) and the other of the Parity Lien Obligations which is also an Additional Agency/Authority Loan Agreement, the State Shared Revenues which are pledged to the payment of amounts due hereunder, with such powers as the court making such appointment shall confer (and the City does hereby irrevocably consent to such appointment); provided, however, that under no circumstances may the Payments be accelerated.

Each right, power and remedy of the Seller provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for herein, or, unless prohibited by the terms hereof, now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise or beginning of the exercise by the Seller of any one or more of the rights, powers or remedies provided for herein or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by either party of any or all of such other rights, powers or remedies. The failure to insist upon strict performance of any of the covenants or agreements herein set forth shall not be considered or taken as a waiver

or relinquishment for the future of the rights of the Seller to insist upon a strict compliance by the Seller with all the covenants and conditions hereof. The City shall, upon not less than 10 days' prior request by the Seller, execute, acknowledge and deliver to the Seller a statement in writing certifying that this Agreement is unmodified and in full force and effect (or, if this Agreement has been modified, that it is in full force and effect except as modified, and stating the modification), and the dates to which the amounts payable hereunder have been paid in advance, if any.

(b) The Seller shall in no event be in default in the performance of any of its obligations hereunder unless and until the Seller shall have failed to perform such obligation within 30 days or such additional time as is reasonably required to correct any such default after notice by the City properly specifying wherein the Seller has failed to perform any such obligation. No default by the Seller shall relieve the City of its obligations to make the various payments herein required, so long as any of the Obligations remain outstanding; however, the City may exercise any other remedy available at law or in equity to require the Seller to remedy such default so long as such remedy does not interfere with or endanger the payments required to be made by the Seller under the Trust Agreement.

*Section 10. Assignment.*

(a) Except as otherwise provided herein, the City shall not assign, transfer, pledge or hypothecate or otherwise dispose of this Agreement or any interest therein, and any assignment in contravention hereof shall be void.

(b) Subject to the terms of the Trust Agreement, all and every part of the right, title and interest of the City in and to this Agreement and all payments of any kind due or which become due to the Seller hereunder are sold, pledged, assigned and transferred pursuant to the Trust Agreement.

*Section 11. Federal Law Provisions.*

(a) (i) No direction for the making of any investment or other use of the proceeds of any of the Tax-Exempt Obligations or of the Prior Project shall be made which would cause the Tax-Exempt Obligations to be "arbitrage bonds" as that term is defined in section 148 (or any successor provision thereto) of the Code or "private activity bonds" as that term is defined in section 141 (or any successor provision thereto) of the Code, and the requirements of such sections and related regulations of the Code shall be complied with throughout the term of the Tax-Exempt Obligations. Particularly, the City shall be the owner of the Prior Project for federal income tax purposes. The City shall not enter into any management or service contract with any entity other than a governmental entity for the operation of any portion of the Prior Project unless the management or service contract complies with the requirements of Revenue Procedure 97-13 or such other authority as may control at the time or any lease or other arrangement with any entity other than a governmental entity that gives such entity special legal entitlements with respect to any portion of the Prior Project. Also, the payment of principal and interest with respect to the Tax-Exempt Obligations shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Tax-Exempt Obligations, or amounts treated as proceeds of

the Tax-Exempt Obligations, shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds may be so invested for an initial temporary period until needed for the purpose for which the Tax-Exempt Obligations are being executed and delivered, may be so used in making investments in a *bona fide* debt service fund or may be invested in obligations issued by the United States Treasury. The City shall comply with the procedures and covenants contained in any arbitrage rebate provision or separate agreement executed in connection with the execution and delivery of the Tax-Exempt Obligations (initially those in subsection (b)) for so long as compliance is necessary in order to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion. In consideration of the purchase and acceptance of the Tax-Exempt Obligations by the owners from time to time thereof and of retaining such exclusion and as authorized by Title 35, Chapter 3, Article 7, Arizona Revised Statutes, the City shall, and the appropriate officials of the City are hereby directed, to take all action required to retain such exclusion or to refrain from taking any action prohibited by the Code which would adversely affect in any respect such exclusion.

(ii) (A) The City shall take all necessary and desirable steps, as determined by the Mayor and Council of the City, to comply with the requirements hereunder in order to ensure that the Interest Portion allocable to the Tax-Exempt Obligations is excluded from gross income for federal income tax purposes under the Code; provided, however, compliance with any such requirement shall not be required in the event the City receives a Special Counsel's Opinion that either compliance with such requirement is not required to maintain the exclusion from gross income of such Interest Portion or compliance with some other requirement will meet the requirements of the Code relating to such exclusion. In the event the City receives such a Special Counsel's Opinion, the parties agree to amend this Agreement to conform to the requirements set forth in such opinion.

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

(C) Written procedures for post-issuance compliance with the requirements of the Code have been adopted, with which the City will comply.

(b) (i) Undefined terms used in this subsection shall have the meanings given to them in the Code and the Regulations.

(ii) Unless an exception is available to the satisfaction of the City Representative, within 60 days after the end of each Bond Year, the City shall cause the Rebate Requirement to be calculated and shall pay to the United States of America:

(A) not later than 60 days after the end of the fifth Bond Year and every fifth Bond Year thereafter, an amount which, when added to the future value of all previous Rebate Payments with respect to the Tax-Exempt Obligations (determined as of such Computation Date), is equal to at least 90% of the sum of the Rebate Requirement (determined

as of the last day of such Bond Year) plus the future value of all previous Rebate Payments with respect to the Tax-Exempt Obligations (determined as of the last day of such Bond Year); and

(B) not later than 60 days after the retirement of the last Tax-Exempt Obligation, an amount equal to 100% of the Rebate Requirement (determined as of the date of retirement of the last Tax-Exempt Obligation).

Each Rebate Payment required to be made under this Section shall be filed on or before the date such payment is due, with the Internal Revenue Service at the appropriate location and with required forms and other materials, currently by addressing it to IRS Service Center, Ogden, Utah 84201, and accompanying it with IRS Form 8038-T.

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

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

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

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

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

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

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

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

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

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

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

(C) At least three reasonably competitive providers (i.e. having an established industry reputation as a competitive provider of the type of investments being purchased) are solicited for bids. At least three bids must be received from providers that have no material financial interest in the Tax-Exempt Obligations (e.g., a lead underwriter within 15 days of the issue date of the Tax-Exempt Obligations or a financial advisor with respect to the investment) and at least one of such three bids must be from a reasonably competitive provider. If the City uses an agent to conduct the bidding, the agent may not bid.

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

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

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

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

(H) The City retains until three years after the last outstanding Tax-Exempt Obligation is retired, (1) a copy of the guaranteed investment contract, (2) a receipt or other record of the amount actually paid for the guaranteed investment contract, including any administrative costs paid by the City and a copy of the provider's certification described in (G) above, (3) the name of the person and entity submitting each bid, the time and date of the bid, and the bid results and (4) the bid solicitation form and, if the terms of the

guaranteed investment contract deviate from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation.

(vii) Such experts and consultants shall be employed by the City to make, as necessary, any calculations in respect of rebates to be made to the United States of America in accordance with section 148(f) of the Code with respect to the Tax-Exempt Obligations.

(c) The City shall comply with and carry out all of the provisions of the Continuing Disclosure Undertaking, dated even date with the date of original execution and delivery of the Obligations, provided that such costs of compliance shall be payable solely from the Excise Tax Revenues and the State Shared Revenues. Notwithstanding any other provision of this Agreement, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an event of default; however, the Trustee may (and, at the request of the original purchaser of the Obligations or the owners of at least 25% aggregate principal amount in outstanding Obligations and receipt of indemnity to its satisfaction, shall) take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section. The Seller is not responsible for monitoring or verifying compliance by the City with the Continuing Disclosure Undertaking.

*Section 12. Covenant as to Conflict of Interest; Other Statutory Restrictions.*

(a) To the extent applicable by provision of law, the Seller 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. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time. The Seller covenants not to employ as an employee, an agent or, with respect to the subject matter of this Agreement, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Seller within three years from the execution of this Agreement, unless a waiver of Section 38-511, Arizona Revised Statutes, is provided by the City. No basis exists for the City to cancel this Agreement pursuant to Section 38-511, Arizona Revised Statutes, as of the date hereof.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, the Seller shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the "e-verify" requirements under Section 23-214(A), Arizona Revised Statutes. The breach by the Seller of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of the Seller by the City. The City retains the legal right to randomly inspect the papers and records of the Seller to ensure that the Seller is complying with the above-mentioned warranty. The Seller shall keep such papers and records open for random inspection during normal business hours by the City.

The Seller 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.

*Section 13. Miscellaneous.*

(a) No covenant or obligation herein to be performed by the City may be waived except by the written consent of the Seller, and a waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation as to any other occasion and shall not preclude the Seller from invoking such remedy at any later time prior to the cure by the City of the condition giving rise to such remedy.

(b) This Agreement shall be construed and governed in accordance with the laws of the State in effect from time to time.

(c) The recitals set forth at the beginning of this Agreement are incorporated in this Agreement by this reference. This Agreement constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, supplemented, altered or changed in any respect except by a written document signed by both the Seller and the City, subject to the restrictions with regard thereto provided by the Trust Agreement.

(d) Any term or provision of this Agreement found to be prohibited by law or unenforceable or which would cause this Agreement to be invalid, prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, causing the remainder of this Agreement to be invalid, prohibited by law or unenforceable.

(e) The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(f) Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, assigns and personal representatives, as the case may be. Any person or entity acquiring any interest in or to the right, title or interest of the Seller herein shall be and have the rights of a third party beneficiary hereunder.

(g) This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day of and year first above written.

The Seller:

\_\_\_\_\_, as seller

By .....  
Printed Name: .....  
Title: .....

The City:

CITY OF SAN LUIS, ARIZONA, a municipal corporation under the laws of the State of Arizona, as purchaser

By .....  
Mayor

ATTEST:

By .....  
City Clerk

**SCHEDULE**

Payment  
Date

Principal

Interest

Total  
Payment

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**FIRST EXCISE TAX TRUST AGREEMENT**

by and between

\_\_\_\_\_,  
as Trustee

and

**THE CITY OF SAN LUIS, ARIZONA,**  
as Purchaser

Dated as of \_\_\_\_\_ 1, 2014

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EXHIBIT                      FORM OF OBLIGATIONS

\*                      \*                      \*

## FIRST EXCISE TAX TRUST AGREEMENT

THIS FIRST EXCISE TAX TRUST AGREEMENT, made and entered into as of the 1st day of \_\_\_\_\_, 2014 (this "Trust Agreement"), by and between the CITY OF SAN LUIS, ARIZONA, a municipal corporation under the laws of the State of Arizona (the "City") and \_\_\_\_\_, 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"), and;

### W I T N E S S E T H:

WHEREAS, pursuant to Resolution No. \_\_\_\_\_ adopted on October 22, 2014, the Mayor and Council of the City determined to refinance the City's obligations under the Leaseback Agreement (as defined in the Purchase Agreement), between U.S. Bank National Association and the City which was entered into for the purpose of financing and refinancing the costs of the acquisition and construction of certain improvements in the City (the "Prior Project"); and

WHEREAS, for the purpose of refinancing the lease-purchase of the Prior Project, the Mayor and Council of the City requested that the Trustee sell and execute and deliver Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A in the principal amount of \$\_\_\_\_\_,000 (the "Tax-Exempt Obligations") and Excise Tax Revenue Refunding Obligations, Taxable Series 2014B, in the principal amount of \$\_\_\_\_\_,000 (the "Taxable Obligations" and, together with the Tax-Exempt Obligations, the "Obligations"), and the Trustee has, as described in this Trust Agreement, transferred proceeds of the sale of the Obligations to the Escrow Trustee for purposes of the Escrow Trust Agreement (each term as defined herein);

### GRANTING CLAUSES

NOW, THEREFORE, In order to secure the payment of principal and interest (to the extent provided herein) represented by the Obligations, the rights of the Owners of the Obligations and the performance and the observance of the covenants and conditions contained in the Obligations, the Purchase Agreement and herein, and the performance and the observance of all of the covenants and conditions contained therein, the City absolutely and irrevocably pledges and assigns to the Trustee, and the Trustee hereby declares an irrevocable trust and acknowledges its acceptance of, all right, title and interest in and to the following described trust estate, which shall be administered by the Trustee according to the provisions of this Trust Agreement and for the equal and proportionate benefit of the Owners of the Obligations:

A. All right, title and interest of Seller in, under and pursuant to the Purchase Agreement, the Payments and any other amounts payable by the City under the Purchase Agreement and the present and continuing right to (i) make claim for, collect or cause to be collected, receive or cause to be received all such revenues, receipts and other sums of money payable or receivable thereunder, (ii) to bring actions and proceedings thereunder or for the enforcement of such rights, and (iii) to do any and all other things which the Seller is or may become entitled to do thereunder;

B. Amounts on deposit from time to time in the funds created pursuant hereto, subject to the provisions of this Trust 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 Obligations, by Seller 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 and singular, the trust estate, including all additional property which by the terms hereof has or may become subject to the encumbrance of this Trust Agreement, unto the Trustee and its successors and assigns, forever, subject, however, to the rights reserved hereunder;

IN TRUST, however, for the equal and proportionate benefit and security of the Owners from time to time of the Obligations executed and delivered hereunder and Outstanding, none of the Obligations being entitled to priority or distinction one over the other in the application of the revenues from the Excise Taxes and the State Shared Revenues pledged by the Purchase Agreement to the Payments, regardless of the delivery of any of the Obligations prior to the delivery of any other of the Obligations, or regardless of the time or times principal represented by any Obligations is paid or is subject to prepayment, all of the Obligations being co-equal as to the pledge of and lien on the revenues from the Excise Taxes and the State Shared Revenues pledged for the Payments thereof and sharing ratably, without preference, priority or distinction, as to the source or method of payment from the revenues from the Excise Taxes and the State Shared Revenues or security therefor and conditioned, however, that if the City shall well and truly pay or cause to be paid fully and promptly when due all indebtedness, liabilities, obligations and sums at any time secured hereby, including interest and attorneys' fees, and shall promptly, faithfully and strictly keep, perform and observe or cause to be kept, performed and observed all of its covenants, warranties and agreements contained herein, this Trust 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 hereinafter set forth.

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

## ARTICLE I DEFINITIONS

*Section 1.1. Definitions.* In addition to the terms defined in the first paragraph hereof and in the Recitals hereto and in the Purchase Agreement and unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Trust Agreement, have the meanings herein specified.

“*Additional Agency/Authority Loan Agreement*” means an agreement for any additional loan from GADA (as defined in the Purchase Agreement) or for any loan from WIFA subject to Section 49-1225(F) or 49-1245(F), Arizona Revised Statutes hereafter consummated.

“*Annual Debt Service Requirement*” means for any Fiscal Year the amount to be paid in such year with respect to the Loan Repayment Agreement (2009), the Purchase Agreement and the Parity Lien Obligations (or portion thereof in question) for payment of principal and interest requirements (or portion thereof in question) during such year.

“*Authorized Denominations*” means \$5,000 of principal represented by the Obligations of a series due on a specific payment date or integral multiples thereof.

“*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 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 last Tax-Exempt Obligation.

“*Bond Yield*” 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 Tax-Exempt Obligations as determined under Regulations section 1.148-4(b), recomputed if required by Regulations section 1.148-4(b)(4) or 4(h)(3). The present value of all such payments shall be computed as of the date of issue of the Tax-Exempt Obligations and using semiannual compounding on the basis of a 360-day year.

“*Business Day*” means any day of the week other than a Saturday, Sunday or a day which shall be in the State a legal holiday or a day on which the Trustee is authorized or obligated by law or executive order to close or a day on which the Federal Reserve is closed, as modified by the effect of Section 9.6.

“*City Representative*” means the City Manager, the City Finance Director or any other person authorized by the City Manager or the Mayor and Council to act on behalf of the City with respect to this Trust Agreement.

“*Closing Date*” means \_\_\_\_\_, 2014.

“*Code*” means the Internal Revenue Code of 1986, as amended. References to the Code and sections thereof include applicable regulations and temporary regulations thereunder and any successor provisions to those sections, regulations or temporary regulations and any applicable regulations or temporary regulations issued pursuant to the Internal Revenue Code of 1954, as amended.

“*Continuing Disclosure Undertaking*” means the Continuing Disclosure Undertaking of the City, dated the date of the Obligations.

“*Corporate Trust Office*” means the office of the Trustee designated in Section 12.2 or any successor corporate trust office.

“*Costs of Issuance Fund*” means the fund of that name established pursuant to Article III hereof and held by the Trustee.

“*Debt Service Coverage*” means the amount of the revenues from the Excise Taxes and the State Shared Revenues for the most recently completed Fiscal Year divided by the Maximum Annual Debt Service.

“*Debt Service Reserve Fund*” means the fund of that name established pursuant to Article V hereof and held by the Trustee.

“*Defaulted Interest*” has the meaning provided in Section 2.10(d).

“*Defeasance Obligations*” means, to the extent permitted by law, (1) cash, (2) non-callable direct obligations of the United States of America (“*Treasuries*”), (3) evidences of ownership of proportionate interests in future interest and principal payments on *Treasuries* held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying *Treasuries* are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, (5) securities eligible for “AAA” defeasance under then-existing criteria of S&P or (6) any combination of the foregoing.

“*Delivery Costs*” means all items of expense directly or indirectly payable by or reimbursable to the City or the Trustee relating to the sale and execution and delivery of the Purchase Agreement, this Trust Agreement, the Escrow Trust Agreement and the Obligations, as applicable, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, initial fees and charges of the Trustee, financing discounts, legal fees and charges, insurance fees and charges, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Obligations and charges and fees in connection with the foregoing.

“*Depository Trustee*” means any bank or trust company, which may include the Trustee, designated by the City, with a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal or State of Arizona authority.

“*Designated Office*” means the office designated as such by the Trustee in writing to the City.

“*DTC*” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

“*electronically*” or “*electronic method*” means, with respect to notice, one transmitted through a timesharing terminal, computer network or facsimile machine, if operative as between any two parties, or if not operative, by telephone (promptly confirmed in writing).

“*Escrow Trust Agreement*” means the Escrow Trust Agreement, dated as of \_\_\_\_\_ 1, 2014, by and the Escrow Trustee and the City.

“*Escrow Trustee*” means \_\_\_\_\_, as escrow trustee.

“*Event of Default*” means an event of default described in Section 9 of the Purchase Agreement.

“*Excise Taxes*” means the unrestricted transaction privilege (sales) taxes, business license and franchise fees, parks and recreation fees and permits and fines and forfeitures the City now imposes; provided that the Mayor and Council of the City may impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of such Council.

“*Fiscal Year*” means the fiscal year for the City, currently July 1 through and including June 30.

“*Gross Proceeds*” means:

(i) any amounts actually or constructively received by the City from the sale of the Tax-Exempt Obligations but excluding amounts used to pay accrued interest on the Tax-Exempt Obligations within one year of the date of issuance of the Tax-Exempt Obligations;

(ii) transferred proceeds of the Tax-Exempt 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 Tax-Exempt 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 Tax-Exempt Obligations, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Tax-Exempt 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 this Trust Agreement.

*“Independent Counsel”* means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the City or the Trustee and which may include the counsel giving a Special Counsel’s Opinion.

*“Interest Payment Date”* means each January 1 and July 1, while principal represented by any Obligations is outstanding provided that, pursuant to Section 9.6, if any such day is not a Business Day, any payment due on such date may be made on the next Business Day, without additional interest and with the same force and effect as if made on the specified date for such payment.

*“Interest Portion”* means the amounts of each of the Payments in the column in the Schedule attached to the Purchase Agreement designated “Interest,” denominated as and comprising the interest portion of the Payments pursuant to the Purchase Agreement and received by the Seller.

*“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”* means the initial offering price to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters of wholesalers) at which price the Tax-Exempt Obligations were sold, less any bond insurance premium and reserve surety bond premium. Issue price shall be determined as provided in Regulations section 1.148-1(b).

*“Market Value”* means the indicated bid value of the investment or investments to be valued as shown in The Wall Street Journal or any publication having general acceptance as a source of valuation of the same or similar types of securities or any securities pricing service available to or used by the Trustee and generally accepted as a source of valuation.

*“Maximum Annual Debt Service”* means, at the time of computation, the greatest Annual Debt Service Requirement for the then-current or any succeeding Fiscal Year.

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

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

“*Notification*” shall have the meaning provided in Section 10.3(b).

“*Outstanding*” refers to Obligations issued in accordance with this Trust Agreement, excluding: (i) Obligations which have been exchanged or replaced, or delivered to the Trustee for credit against a mandatory prepayment installment with respect to principal represented thereby; (ii) Obligations which have been paid; (iii) Obligations which have become due and for the payment of which moneys have been duly provided to the Trustee; and (iv) Obligations for which there have been irrevocably set aside with a Depository Trustee sufficient moneys or obligations permitted hereby and by the Purchase Agreement bearing interest at such rates and with such maturities as will provide sufficient funds to pay the principal, interest and premium, if any, represented by such Obligations, provided, however, that if principal represented by any such Obligations is to be prepaid, the City shall have taken all action necessary to prepay such Obligations and notice of such prepayment shall have been duly mailed in accordance with the proceedings under which such Obligations were issued or irrevocable instructions so to give such notice shall have been given to the Trustee.

“*Owner*” or any similar term, when used with respect to an Obligation means the person in whose name such Obligation shall be registered.

“*Parity Lien Obligation*” means an obligation issued on a parity with the Loan Repayment Agreement (2009) (as defined in the Purchase Agreement), as permitted by Section 6 of the Loan Repayment Agreement (2009), which includes Additional Agency/Authority Loan Agreements.

“*Payment Fund*” means the fund of that name established pursuant to Article V hereof and held by the Trustee.

“*Payments*” means the Payments required to be paid by the City pursuant to Subsection 1(b) of the Purchase Agreement and as set forth in the Schedule to the Purchase Agreement, subject to the provisions of Subsection 5.2(b).

“*Permitted Investments*” means any investment permitted by Section 35-323, Arizona Revised Statutes.

“*Purchase Agreement*” means the First Excise Tax Purchase Agreement, dated as of \_\_\_\_\_ 1, 2014, by and between the City and the Trustee, in its capacity as “Seller.”

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

“*Rebate Requirement*” means, for each Bond Year, at any time the excess of the future value of all Receipts over the future value of all Rebate Payments. For purposes of calculating the Rebate Requirement the Bond Yield shall be used to determine the future value of Receipts and Rebate 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.

“*Regular Record Date*” means the close of business on the fifteenth day of the month preceding each Interest Payment Date.

“*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.

“*Reserve Requirement*” means an amount equal to the Maximum Annual Debt Service at the time of the deposit to the Debt Service Reserve Fund then required; provided, however, that such amount shall not exceed the least of (a) ten percent (10%) of the net proceeds of the Obligations at the time of original delivery, (b) the Maximum Annual Debt Service at the time of original delivery or (c) one hundred twenty-five percent (125%) of the average annual debt service at the time of original delivery.

“*Responsible Officer*” means, when used with respect to the Trustee, the president, any vice president, any assistant vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any senior associate, any associate or any other officer of the Trustee within the Corporate Trust Office customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Corporate Trust Office because of such person’s knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Trust Agreement.

“*S&P*” means Standard & Poor’s Financial Services LLC, a limited liability company organized and existing under the laws of the State of New York, its successors and assigns, and, if such company shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, S&P shall be deemed to refer to any other nationally recognized securities rating agency designated by the City by notice to the Trustee.

“*Securities Depository*” means a “clearing agency” (securities depository) registered under Section 17A of the Securities Exchange Act of 1934, as amended.

“*Special Counsel’s Opinion*” means an opinion signed by an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by the City.

“*Special Record Date*” has the meaning provided in Section 2.11(d).

“*State*” means the State of Arizona.

“*State Intercept of Funds*” means the withholding of the State Shared Revenues as provided in Sections 41-1554.06(L) and (M) and 41-1554.07(I), (J), and (K), Arizona Revised Statutes.

“*State Shared Revenues*” means any amounts of excise taxes, transaction privilege (sales) taxes and income taxes imposed by the State or any agency thereof and returned, allocated or apportioned to the City, except the City’s share of any such taxes which by State law, rule or regulation must be expended for other purposes such as motor vehicle fuel taxes.

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

Words importing persons include firms, associations and corporations, and the singular and plural forms of words shall be deemed interchangeable wherever appropriate.

*Section 1.2.      Interpretation.*

(a) Any reference herein to the Mayor and Council of the City 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.      Obligations Not General Obligations of the City.* The 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**  
**EXCISE TAX REVENUE OBLIGATIONS**

*Section 2.1.      Authorization of the Obligations.* The Trustee is hereby authorized and directed to execute and deliver to the original purchaser thereof, the Tax-Exempt Obligations in the aggregate principal amount of \$\_\_\_\_,000 and the Taxable Obligations in the aggregate principal amount of \$\_\_\_\_,000, each series representing proportionate ownership interests in the Payments. In no event shall the Obligations be deemed liabilities, debts or obligations of the Trustee.

*Section 2.2.      Date; Interest Accrual.* Each Obligation shall be dated the Closing Date, and interest represented thereby shall be payable from such date or from the most

recent Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Obligations Outstanding hereunder.

*Section 2.3. Payment Amounts and Dates and Interest Rates.* The Obligations shall be in Authorized Denominations. Principal represented by the Obligations shall be payable on the dates and in the principal amounts, and interest represented thereby shall be computed at the rates, as shown below:

<u>Maturity Date</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rates</u>
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Taxable Obligations:

Tax-Exempt Obligations:

*Section 2.4. Interest on Obligations.* Interest represented by the Obligations shall be payable semiannually on January 1 and July 1 of each year commencing January 1, 2015, to and including the date of payment or prepayment of the amount of principal represented by the Obligations. Said interest shall represent the portion of the Payments designated as interest and coming due during the six-month period preceding each Interest Payment Date with respect to the Obligations. The proportionate share of the portion of the Payments designated as interest with respect to any Obligation shall be computed by multiplying the portion of Payments designated as principal with respect to such Obligation by the rate of interest applicable to such Obligation (on the basis of a 360-day year of twelve 30-day months).

*Section 2.5. Form.* The Obligations shall be in fully registered, physically certificated form. The form of the Obligations shall be substantially in the form set forth in the Exhibit hereto.

*Section 2.6. Execution.* The Obligations shall be executed by and in the name of the Trustee by the manual signature of an authorized representative of the Trustee. If the representative whose signature appears on any Obligation ceases to be such representative before the Closing Date, such signature shall nevertheless be as effective as if the representative had remained in office until the Closing Date. Any Obligation may be executed on behalf of the Trustee by such person as at the actual date of the execution of such Obligation shall be the proper authorized representative of the Trustee although at the nominal date of such Obligation such person shall not have been such authorized representative of the Trustee. No Obligation shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Trust Agreement unless and until executed and delivered by the Trustee. The execution by the Trustee of any Obligation shall be conclusive evidence that the Obligation so executed has been duly authorized and delivered hereunder and is entitled to the security and benefit of this Trust Agreement.

*Section 2.7. Book-Entry Only System.* The Trustee and the City may from time to time enter into, and discontinue, an agreement with a Securities Depository which is the Owner of the Obligations, to establish procedures with respect to the Obligations not inconsistent with the provisions of this Trust Agreement; provided, that, notwithstanding any other provisions of this Trust Agreement, any such agreement may provide that different provisions for notice to the Securities Depository may be set forth herein and that a legend shall appear on each Obligation so long as the Obligations are subject to such agreement. With respect to Obligations registered in the name of a Securities Depository (or its nominee), neither the Trustee nor the City shall have any obligation to any of its members or participants or to any person on behalf of whom an interest is held in the Obligations. It is hereby acknowledged that the City and the Trustee intend to enter into an agreement with DTC in connection with the execution and delivery of the Obligations, and while such agreement is in effect, the procedures established therein shall apply to the Obligations notwithstanding any other provisions of this Trust Agreement to the contrary. As long as DTC is the Securities Depository with respect to the Obligations, the Trustee shall be a "DTC Direct Participant." The Trustee shall not have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Obligations regarding accuracy of any records maintained by DTC or DTC participants, the payments by DTC or DTC participants of any amount in respect of principal, interest or premium, if any, represented by the Obligations, any notice which is permitted or required to be given to or by Owners hereunder (except such notice as is required to be given by the City to the Trustee or to DTC), or any consent given or any other action taken by DTC as Owner.

*Section 2.8. Application of Proceeds.* The proceeds received by the Trustee from the sale of the Obligations shall forthwith be transferred by the Trustee as follows, in the following order of priority:

- (a) \$ \_\_\_\_\_ shall be deposited in the Costs of Issuance Fund and
- (b) \$ \_\_\_\_\_ shall be transferred to the Escrow Trustee for purposes of the Escrow Trust Agreement.

*Section 2.9. Transfer and Exchange.*

(a) Any Obligation may, in accordance with its terms, be transferred upon the registration books for the Obligations required to be kept pursuant to the provisions of Section 2.13 by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Obligation for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Obligation or Obligations shall be surrendered for transfer, the Trustee shall execute and deliver a new Obligation or Obligations in fully registered form of the series and same payment date and interest rate and for a like aggregate payment amount.

(b) Obligations may be exchanged at the Designated Office for a like aggregate payment amount of Obligations of Authorized Denominations of the same series and same payment date and interest rate. In connection with any such exchange or transfer of Obligations, the Owner requesting such exchange or transfer shall, as a condition precedent to

the exercise of the privilege of making such exchange or transfer, remit to the Trustee an amount sufficient to pay any tax or other governmental charge required to be paid, other than one imposed by the City (which will not be payable by the Trustee), or any fee or expense of the Trustee or the City with respect to such exchange or transfer.

(c) The Trustee may, but shall not be obligated to, exchange or register the transfer of an Obligation (i) if principal represented by the Obligation is to be prepaid, in whole or in part, or (ii) during a period of fifteen (15) days preceding the giving of a notice of prepayment. If an Obligation subject to such prepayment is to be transferred after having been selected for prepayment, any notice of prepayment which has been given to the transferor shall be binding on the transferee and a copy of the notice of prepayment shall be delivered by the Trustee to the transferee along with the duly registered Obligation or Obligations.

*Section 2.10. Obligations Mutilated, Lost, Destroyed or Stolen.* If any Obligation shall become mutilated, the Trustee, at the expense of the Owner of said Obligation, shall execute and deliver a new Obligation of like series and tenor and payment date and amount in exchange and substitution for the Obligation so mutilated, but only upon surrender to the Trustee of the Obligation so mutilated. Any mutilated Obligation so surrendered to the Trustee shall be cancelled by it and redelivered to, or upon the order of, the Owner of such Obligation. If any Obligation shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and, if an indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner of such Obligation, shall execute and deliver a new Obligation of like series and tenor and payment date and amount, numbered as the Trustee shall determine in lieu of and in substitution for the Obligation so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each new Obligation delivered under this Section and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section. Any Obligation issued under the provisions of this Section in lieu of any Obligation alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Obligations secured by this Trust Agreement. The Trustee shall not be required to treat both the original Obligation and any replacement Obligation as being Outstanding for the purpose of determining the principal amount of Obligations which may be executed and delivered hereunder or for the purpose of determining any percentage of Obligations Outstanding hereunder, but both the original and replacement Obligation shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Obligation for an Obligation which has been mutilated, lost, destroyed or stolen, and which has become due, the Trustee may make payment with respect to such Obligation upon receipt of the aforementioned indemnity.

*Section 2.11. Payment.*

(a) Payment of interest due represented by any Obligation on any Interest Payment Date shall be made to the person appearing on the registration books for the Obligation maintained by the Trustee as the Owner thereof as of the Regular Record Date immediately preceding such Interest Payment Date, such interest to be paid by check mailed on the date due by first class mail to such Owner at the address thereof as it appears on such registration books, payable in lawful money of the United States of America.

(b) The principal and interest represented by any Obligation shall be payable in lawful money of the United States of America upon surrender when due at the Designated Office.

(c) Interest and, if satisfactory arrangements for surrender are made with the Trustee, principal, payable to any Securities Depository or to any Owner of \$1,000,000 or more in principal amount of Obligations shall be paid by wire transfer in immediately available funds to an account in the United States of America if the Owner makes a written request of the Trustee at least twenty (20) days before the Interest Payment Date specifying the account address. The notice may provide that it shall remain in effect for subsequent payments until otherwise requested in a subsequent written notice.

(d) Any interest represented by any Obligation which is payable on, but is not punctually paid or duly provided for on, any Interest Payment Date (“Defaulted Interest”) shall forthwith cease to be payable to the Owner on the relevant Regular Record Date solely by virtue of such Owner having been such Owner. Such Defaulted Interest shall thereupon be paid, together with interest thereon at the same rate per annum as such Defaulted Interest, by the Trustee (out of funds provided to it by the City) to the persons in whose names such Obligations are registered at the close of business on a special record date for the payment of such portion of Defaulted Interest as may then be paid from the sources herein provided (the “Special Record Date”). When the Trustee has funds available to pay the Defaulted Interest and interest thereon, the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest and interest thereon which shall be not more than fifteen (15) nor less than ten (10) days prior to the date of the proposed payment by the Trustee. The Trustee shall promptly cause notice of the proposed payment of such Defaulted Interest and interest thereon and the Special Record Date therefor to be mailed, first class postage prepaid, to each Owner of an Obligation at his address as it appears in the registration books by the Trustee for the Obligation not less than ten (10) days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and interest thereon and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest and interest thereon shall be paid to the persons in whose names the Obligations are registered on such Special Record Date.

*Section 2.12. Execution of Documents and Proof of Ownership.*

(a) Any request, direction, consent, revocation of consent or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by the Obligation Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Obligations. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of the Obligations shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

(1) The fact and date of the execution by any Owner or the attorney or agent thereof of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged

or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of his authority.

(2) The fact of the ownership of the Obligations by any person and the amount, the payment date and the numbers of such Obligations and the date of his holding the same be proved on the registration books maintained pursuant to Section 2.13.

(b) Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Obligation shall bind every future Owner of the same Obligation in respect of anything done or suffered to be done by the Trustee in pursuance of such request or consent.

*Section 2.13. Obligation Register.* The Trustee will keep or cause to be kept, at the Designated Office, sufficient books for the registration and transfer of the Obligations which shall at all times during regular business hours on any Business Day be open to inspection by the City and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Obligations as hereinbefore provided.

*Section 2.14. Payment of Unclaimed Amounts.* In the event any check for payment of interest represented by an Obligation is returned to the Trustee unendorsed or is not presented for payment within two (2) years from its payment date or any Obligation is not presented for payment of principal when due, including because of prepayment, if funds sufficient to pay such interest or principal due upon such Obligation shall have been made available to the Trustee for the benefit of the Owner thereof, it shall be the duty of the Trustee to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Obligation who shall thereafter be restricted exclusively to such funds for any claim of whatever nature relating to such Obligation or amounts due thereunder. The obligation of the Trustee to hold such funds shall continue for two years and six months (subject to applicable escheat laws) following the date on which such interest or principal payment became due, whether on the date due or the date fixed for prepayment, or otherwise, at which time the Trustee shall surrender such unclaimed funds so held to the City, whereupon any claim of whatever nature by the Owner of such Obligation arising under such Obligation shall be made upon the City.

**ARTICLE III  
COSTS OF ISSUANCE FUND**

*Section 3.1. Establishment and Application of Costs of Issuance Fund.*

(a) The Trustee shall establish a special trust fund designated as the “City of San Luis Excise Tax Revenue Refunding Obligations Costs of Issuance Fund,” shall keep such fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided in this Trust Agreement.

(b) Amounts in the Costs of Issuance Fund shall be disbursed for Delivery Costs. Disbursements from the Costs of Issuance Fund shall be made by the Trustee upon receipt of a requisition for disbursement (on which the Trustee is entitled to rely) executed or approved by the City Representative. Each such certificate shall set forth the amounts to be disbursed for payment, or reimbursement of previous payments, of Delivery Costs and the person or persons to whom said amounts are to be disbursed.

(c) On the earlier of December 1, 2014, or when all Delivery Costs associated with the Obligations have been paid (as shown by a certificate of a City Representative, if requested by the Trustee), the Trustee shall transfer any amounts remaining in the Costs of Issuance Fund to the Payment Fund and the Costs of Issuance Fund shall be closed.

**ARTICLE IV  
PREPAYMENT OF OBLIGATIONS**

*Section 4.1. Prepayment Provisions.*

(a) Principal represented by the Tax-Exempt Obligations payable before or on July 1, 20\_\_, is not subject to prepayment. Principal represented by the Tax-Exempt Obligations payable on or after July 1, 20\_\_, is subject to prepayment in such order and from such principal amount payable selected by the City and by lot within such principal amount by such methods as may be selected by the Trustee (or if held in book-entry form in any manner acceptable to DTC) from prepayments made by the City pursuant to Section 7 of the Purchase Agreement, in whole or in part on any date on or after July 1, 20\_\_, at a price equal to the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment, but without premium.

(b) Principal represented by the Tax-Exempt Obligations payable on July 1, 20\_\_, 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:

Year Prepaid

20\_\_  
20\_\_

Principal Amount Prepaid

\$ \_\_\_\_\_  
\_\_\_\_\_

Whenever Tax-Exempt Obligations payable on July 1, 20\_\_, are purchased, prepaid (other than pursuant to mandatory prepayment) or delivered by the City to the Trustee for cancellation, the principal amount of the Tax-Exempt Obligations payable on July 1, 20\_\_, so retired shall satisfy and be credited against the mandatory prepayment requirements for such Tax-Exempt Obligations payable on July 1, 20\_\_, for such years as the City may direct.

(c) The Taxable Obligations are not subject to prepayment prior to their stated payment dates.

*Section 4.2. Selection of Obligations for Prepayment.* Principal represented by the Tax-Exempt Obligations shall be prepaid only in the amounts of \$5,000 of principal represented by each or integral multiples thereof. The City shall, at least forty-five (45) days prior to the prepayment date, notify the Trustee of such prepayment date and of the payment dates of the Tax-Exempt Obligations and the payment amount of principal represented by the Tax-Exempt Obligations due on any such payment date to be prepaid on such date. For the purposes of any prepayment of less than all of the Tax-Exempt Obligations payable on a single payment date, if the Tax-Exempt Obligations are not held in a book-entry-only system as described in Section 2.7, the particular Tax-Exempt Obligations or portions of Tax-Exempt Obligations payable on the date(s) selected to be prepaid shall be selected by the Trustee by lot in accordance with its standard procedures not more than forty-five (45) nor less than thirty (30) days prior to the prepayment date by such selection methods as the Trustee shall in its sole discretion deem appropriate and fair; provided, however, that such selection methods shall provide for the selection of Tax-Exempt Obligations or portions thereof for prepayment in principal amounts of \$5,000 or integral multiples thereof such that any \$5,000 Tax-Exempt Obligation or \$5,000 portion of a Tax-Exempt Obligation payable on the date selected shall be as likely to be called for prepayment as any other such \$5,000 Tax-Exempt Obligation or \$5,000 portion thereof. The Trustee shall promptly notify the City in writing of the Tax-Exempt Obligations so selected for prepayment, and the City will provide the Trustee within thirty (30) days a recomputed payment schedule for the Purchase Agreement. Notwithstanding the foregoing, the Securities Depository for Tax-Exempt Obligations held in a book-entry-only system shall select the Tax-Exempt Obligations for prepayment from Tax-Exempt Obligations maturing in a given year according to its stated procedures. While the City intends that allocations be made in accordance with the foregoing proportional provisions, the selection of Tax-Exempt Obligations for prepayment shall be subject to practices and procedures of the Securities Depository as in effect from time to time.

*Section 4.3. Notice of Prepayment; Effect.*

(a) The Trustee shall cause notice of any prepayment hereunder to be mailed to the Owners of all of the Tax-Exempt Obligations to be prepaid at the addresses appearing in the Register kept for such purpose pursuant to Section 2.13. Each such notice shall (1) be sent no more than 60 nor less than 30 calendar days prior to the prepayment date,

(2) identify the Tax-Exempt Obligations to be prepaid (specifying the CUSIP numbers, if any, assigned to the Tax-Exempt Obligations), (3) specify with respect to the Tax-Exempt Obligations being prepaid their date of issue, their final payment date, their prepayment date and their prepayment price, (4) set forth the name, address and telephone number of the person from whom information pertaining to the prepayment may be obtained, and (5) state that on the prepayment date the Tax-Exempt Obligations to be prepaid will be payable at the Designated Office, that from that date interest will cease to accrue and that no representation is made as to the accuracy or correctness of the CUSIP numbers printed therein or on the Tax-Exempt Obligations. No defect affecting any Tax-Exempt Obligation, whether in the notice of prepayment or the delivery thereof (including any failure to mail such notice), shall affect the validity of the prepayment proceedings for any other Tax-Exempt Obligations.

(b) If at the time of mailing of notice of an optional prepayment of principal represented by the Tax-Exempt Obligations, there has not been deposited with the Trustee moneys or Defeasance Obligations sufficient to prepay all Tax-Exempt Obligations subject to such prepayment and the requirements of (e) 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 Tax-Exempt Obligations shall not be prepaid unless such moneys or Defeasance Obligations are so deposited and such requirements in (e) below are met.

(c) Any notice of prepayment shall be mailed by first class mail, postage prepaid; provided that any notice of prepayment given to any Owner of \$1,000,000 or more in aggregate principal amount of Tax-Exempt Obligations also shall be transmitted electronically. A certificate of the Trustee shall conclusively establish the mailing or delivery of any such notice for all purposes.

(d) Notice having been mailed in the manner provided in (b) above, the Tax-Exempt Obligations shall become due and payable on the prepayment date and, upon presentation and surrender of such Tax-Exempt Obligation at the place or places specified in that notice, shall be paid at the prepayment price, plus interest accrued to the prepayment date.

(e) If the money or Defeasance Obligations for the prepayment of all of the Tax-Exempt Obligations to be prepaid, 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 Tax-Exempt 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.

(f) All moneys deposited in the Payment Fund and held by the Trustee for the prepayment of such portions of principal represented by particular Tax-Exempt Obligations shall be held in trust for the account of the Owners of such Tax-Exempt Obligations and shall be paid to them, respectively, upon presentation and surrender of those Tax-Exempt Obligations.

*Section 4.4. Partial Prepayment of Obligation.* Upon surrender of any Obligation, the principal portion of which has been prepaid in part only, the Trustee shall execute and deliver to the Owner thereof, at the expense of the City, a new Obligation or Obligations of Authorized Denominations equal in aggregate payment amount to the unpaid portion of the Obligation surrendered and due on the same payment date.

## **ARTICLE V PAYMENT FUND AND DEBT SERVICE RESERVE FUND**

*Section 5.1. Trustee's Rights in Purchase Agreement.* The Trustee holds in trust hereunder all of its rights and duties in the Purchase Agreement, including but not limited to all of the rights to receive and collect all of the Payments and all other amounts required to be deposited in the Payment Fund and the Debt Service Reserve Fund pursuant to the Purchase Agreement or pursuant hereto. All of the Payments and such other amounts to which the Seller may at any time be entitled shall be paid directly to the Trustee in trust, and all of the Payments collected or received by the Trustee shall be held by the Trustee in trust hereunder in the Payment Fund and the Debt Service Reserve Fund for the benefit of the Owners.

*Section 5.2. Establishment and Application of Payment Fund.*

(a) The Trustee shall establish a special trust fund designated as the "City of San Luis Excise Tax Revenue Refunding Obligations Payment Fund" (herein referred to as the "Payment Fund"). So long as any Obligations are Outstanding, the City shall have no beneficial right or interest in the Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

(b) Not less than thirty (30) Business Days prior to each Interest Payment Date, the Trustee shall notify the City of the amount required to be paid, after taking into account amounts which will be transferred to the Payment Fund in accordance herewith, on or before such Interest Payment Date, so that a sufficient amount will then be on deposit for both principal and interest represented by the Obligations then due. All amounts received by the Trustee as Payments pursuant to the Purchase Agreement or as transfers pursuant hereto shall be deposited in the Payment Fund.

(c) All amounts in the Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and interest represented by the Obligations as the same shall become due and payable, in accordance with the provisions of Articles II and IV.

*Section 5.3. Establishment and Application of Debt Service Reserve Fund.*

(a) The Trustee shall establish a special trust fund designated as the "Debt Service Reserve Fund" (herein referred to as the "Debt Service Reserve Fund"). So long as any Obligations are Outstanding, the City shall have no beneficial right or interest in the Debt

Service Reserve Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

(b) (1) No deposit need be made into the Debt Service Reserve Fund if the Debt Service Coverage is greater than three (3) times. The Trustee shall deposit into the Debt Service Reserve Fund amounts paid pursuant to Section 1(b)(i) of the Purchase Agreement.

(2) Commencing on the fifteenth (15th) Business Day of the month following a payment made from the Debt Service Reserve Fund as hereinafter described, the Trustee shall deposit into the Debt Service Reserve Fund amounts paid pursuant to Section 1(b)(ii) of the Purchase Agreement.

(3) Amounts in the Debt Service Reserve Fund shall be withdrawn (i) on the fourth (4th) Business Day immediately preceding any payment date for the Obligations and used solely for the purpose of paying the scheduled interest on or principal of the Obligations in the event that no money of the City is made available therefor pursuant to the Purchase Agreement or (ii) otherwise for the retirement of all of the Obligations then Outstanding.

(4) If immediately before any transfer described in Section 5.4 hereof the amount in the Debt Service Reserve Fund exceeds an amount equal to the Reserve Requirement and if the City is not then in default under the Purchase Agreement, the Trustee shall withdraw the amount of any such excess from such fund and shall apply such amount as a deposit to the Payment Fund.

*Section 5.4. Transfers of Investment Earnings to Payment Fund.* Except as otherwise directed by the City, the Trustee shall, on or before the next Interest Payment Date occurring on July 1, transfer any income or profit on the investment of moneys in the funds hereunder to the Payment Fund.

*Section 5.5. Surplus.* Any surplus remaining in any of the funds created hereunder, after prepayment and payment or provision for prepayment and payment of all Obligations, including accrued interest and payment of any applicable fees, expenses or indemnities to the Trustee, or provision for such prepayment and payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

## **ARTICLE VI MONEYS IN FUNDS; INVESTMENT; CERTAIN TAX COVENANTS**

*Section 6.1. Held in Trust.* The moneys and investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the Owners of the Obligations and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the City or any Owner of the Obligations.

*Section 6.2. Investments Authorized.* Upon written order of the City Representative, moneys held by the Trustee hereunder shall be invested and reinvested by the Trustee, to the maximum extent practicable in Permitted Investments having the highest yield reasonably obtainable. The City Representative shall direct such investment in specific Permitted Investments. Such investments, if registrable, shall be registered in the name of the Trustee and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment. The Trustee shall have no obligation to invest and reinvest any cash held by it hereunder in the absence of timely and specific written direction from the City Representative. In no event shall the Trustee be liable for the selection of investments. The Trustee may conclusively rely upon such written direction from the City Representative 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 Code of Federal Regulations 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

*Section 6.3. Accounting.* The Trustee shall furnish to the City, not less than semiannually, an accounting (which may be in the form of its customary statement) of all investments made by the Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 6.2.

*Section 6.4. Allocation of Earnings.* Any income, profit or loss on such investments shall be deposited in or charged to the respective funds from which such investments were made, and any interest on any deposit of funds shall be deposited in the fund from which such deposit was made, except as otherwise provided herein. At the direction of the City Representative, any such income, profit or interest shall be transferred and applied if necessary to pay amounts due pursuant to section 148 of the Code.

*Section 6.5. Valuation and Disposition of Investments.* For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at Market Value. The Trustee may sell or present for redemption, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from such investment.

*Section 6.6. Limitation of Investment Yield.* In the event the City is of the opinion that it is necessary to restrict or limit the yield on the investment of any amounts paid to or held by the Trustee hereunder in order to avoid the Tax-Exempt Obligations, or any of them, being considered "arbitrage bonds" within the meaning of section 148 of the Code, the City Representative may issue to the Trustee a written certificate to such effect (along with appropriate instructions), in which event the Trustee will take such action as is instructed so to

restrict or limit the yield on such investment in accordance with the specific instructions contained in such certificate, irrespective of whether the Trustee shares such opinion.

*Section 6.7. Other Tax Covenants.* In consideration of the acceptance and execution of the Purchase Agreement by the Trustee and the purchase by the Owners of the Tax-Exempt Obligations, from time to time, and in consideration of retaining the exclusion of the portion of each Payment denominated as and comprising interest pursuant to the Purchase Agreement and received by the Owners of the Tax-Exempt Obligations for federal income tax purposes, the City shall, from time to time, neither take nor fail to take any action, which action or failure to act is within its power and authority and would result in such portion of each such Payment becoming subject to inclusion in gross income for federal income tax purposes under either laws existing on the date of execution of the Purchase Agreement or such laws as they may be modified or amended or tax laws later adopted. The City shall comply with such requirement(s) and will take any such action(s) as are necessary to prevent such portion of each such Payment from becoming subject to inclusion in gross income for federal income tax purposes. Such requirements may include but are not limited to making further specific covenants; making truthful certifications and representations and giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements required by any Special Counsel's Opinion; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to the Tax-Exempt Obligations; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys held pursuant to this Trust Agreement and limiting the use of the proceeds of the Tax-Exempt Obligations and property financed thereby.

## **ARTICLE VII THE TRUSTEE**

*Section 7.1. Appointment of Trustee.* The City hereby authorizes and directs the Trustee to, and the Trustee shall, execute and deliver the Purchase Agreement, as Seller, and receive all moneys required to be deposited with the Trustee hereunder and shall allocate, use and apply the same as provided in this Trust Agreement. The City shall maintain as the Trustee a bank or trust company with a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000), and subject to supervision or examination by federal or State authority, so long as any of the Obligations are Outstanding. If such bank or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section, the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

*Section 7.2. Liability of Trustee; Standard of Care.* Except with respect to its authority and power generally and authorization to execute this Trust Agreement, the recitals of facts, covenants and agreements herein, in the Purchase Agreement and in the Obligations shall be taken as statements, covenants and agreements of the City, and the Trustee assumes no responsibility for the correctness of the same, or makes any representations as to the validity

hereof or sufficiency of this Trust Agreement, the Purchase Agreement or the Obligations or shall incur any responsibility in respect hereof or thereof, other than in connection with the duties or obligations herein or in the Obligations assigned to or imposed upon it. Prior to the occurrence of an Event of Default, or after the timely cure of an Event of Default, the Trustee shall perform only such duties as are specifically set forth in this Trust Agreement and no implied obligations or covenants should be read into this Trust Agreement against the Trustee. After the occurrence of an Event of Default, the Trustee shall exercise such of the rights and powers vested in it, and use the same degree of care and skill in such exercise, as a prudent person would exercise under the circumstances in the conduct of the affairs of the Trustee.

*Section 7.3. Merger or Consolidation.* 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, provided that such company shall be eligible under Section 7.1, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

*Section 7.4. Protection and Rights of the Trustee.*

(a) The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificates, statements, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee shall not be bound to recognize any person as an Owner of any Obligation or to take any action at his request unless such Obligation shall be deposited with the Trustee and satisfactory evidence of the ownership of such Obligation shall be furnished to the Trustee. The Trustee may consult with counsel with regard to legal questions, and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith.

(b) Whenever in the administration of its duties under this Trust Agreement, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) shall be deemed to be conclusively proved and established by the certificate of the City Representative and such certificate shall be full warranty to the Trustee for any action taken or suffered under the provisions of this Trust Agreement upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

(c) The Trustee may acquire and dispose of other bonds or evidence of indebtedness of the City with the same rights it would have if it were not the Trustee and may act

as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owners of the Obligations, whether or not such committee shall represent the Owners of the majority in principal amount of the Obligations then Outstanding.

(d) The recitals, statements and representations by the City contained in this Trust Agreement, the Purchase Agreement or the Obligations shall be taken and construed as made by and on the part of the City and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

(e) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee shall not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Trustee shall not be answerable for the exercise of any discretion or power under this Trust Agreement or for anything whatever in connection with the funds and accounts established hereunder, except only for its own willful misconduct or negligence.

(f) No provision in this Trust Agreement shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability (including, without limitation, any and all environmental 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.

(g) The Trustee shall not be accountable for the use or application by the City or any other party of any funds which the Trustee has released in accordance with the terms of this Trust Agreement.

(h) The Trustee makes no representation or warranty, express or implied, as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City of the Prior Project. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Purchase Agreement or this Trust Agreement for the acquisition of the Prior Project.

(i) Notwithstanding any provision in this Trust Agreement or the Purchase Agreement to the contrary, the Trustee shall not be required to take notice or be deemed to have notice of an Event of Default, except an Event of Default under Section 9(a)(i)(A) of the Purchase Agreement, unless a Responsible Officer of the Trustee has actual notice thereof or is specifically notified in writing of such default by the City or the Owners of at least twenty-five percent (25%) in aggregate principal amount of all Obligations then Outstanding.

(j) The Trustee agrees to accept and act upon instructions of directions pursuant to this Trust Agreement sent by unsecured email, facsimile transmission or other similar

unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee email or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. 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 instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions 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.

(k) The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

(l) The permissive right of the Trustee to do things enumerated in this Trust 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 not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the Prior Project.

(m) Before taking any action under this Trust Agreement relating to an Event of Default or in connection with its duties under this Trust Agreement other than making payments of principal and interest represented by the Obligations as they become due, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated, to have resulted from its negligence or willful default in connection with any action so taken.

(n) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding 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 Trust Agreement.

*Section 7.5. Compensation of Trustee.* The City shall from time to time, pursuant to a fee schedule agreed to between the City and the Trustee (which schedule may be amended in writing), pay to the Trustee reasonable compensation for its services, including but not limited to advances to, and reasonable fees and expenses of, independent appraisers,

accountants, consultants, counsel, agents and attorneys-at-law or other experts employed by it in the exercise and performance of its powers and duties hereunder. When the Trustee incurs expenses or renders services after the occurrence of an 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 7.6. Removal and Resignation of Trustee.*

(a) The City (but only if no Event of Default has occurred and is continuing) or the Owners of a majority in aggregate principal amount of all Obligations Outstanding, at any time upon thirty (30) days' prior written notice, and for any reason, may remove the Trustee and any successor thereto, but any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal or State authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or the requirements of any supervising or examining authority above referred to, then, for the purposes of this Section, the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) The Trustee may at any time resign by giving written notice to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor trustee by an instrument in writing; provided, however, that in the event that the City does not appoint a successor trustee within thirty (30) days following receipt of such notice of resignation or its giving notice of removal, the retiring Trustee may petition the appropriate court having jurisdiction to appoint a successor trustee. Any resignation or removal of the Trustee and appointment of a successor trustee shall become effective upon acceptance of appointment by the successor trustee. The Trustee and the City shall execute any documents reasonably required to effect the transfer of rights and obligations of the Trustee to the successor trustee subject, however, to the terms and conditions herein set forth, including, without limitation, the right of the predecessor Trustee to be paid and reimbursed in full for its reasonable charges and expenses (including reasonable fees and expenses of its counsel) and the indemnification under Sections 7.4 and 10.3. Upon such acceptance, the successor trustee shall mail notice thereof to the Owners of the Obligations at their respective addresses as set forth on the registration books for the Obligations maintained pursuant to Section 2.13.

*Section 7.7. Appointment of Agent.* The Trustee may appoint an agent or agents to exercise any of the powers, rights or remedies granted to the Trustee under this Trust Agreement and to hold title to property or to take any other action which may be desirable or necessary.

*Section 7.8. Commingling.* The Trustee may commingle any of the funds held by it pursuant to this Trust Agreement in a separate fund or funds for investment purposes only; provided, however, that all funds or accounts held by the Trustee hereunder shall be accounted for separately notwithstanding such commingling by the Trustee.

*Section 7.9. Records.* The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Trust Agreement, which shall be available for inspection by the City, or any of its agents, at any time, upon reasonable prior notice, during regular business hours. The Trustee shall provide the City Representative with semiannual reports of funds transactions and balances.

## **ARTICLE VIII MODIFICATION OR AMENDMENT OF AGREEMENTS**

### *Section 8.1. Amendments Permitted.*

(a) This Trust Agreement and the rights and obligations of the Owners of the Obligations and the Purchase Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental or amending agreement which shall become effective when the written consent of the Owners of a majority in aggregate principal amount of all Obligations then Outstanding, exclusive of Obligations disqualified as provided in Section 8.3, shall have been filed with the Trustee. No such modification or amendment shall adversely affect the Direct Payments or (1) extend or have the effect of extending the final payment of principal represented by any Obligation or reducing the interest represented thereby or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Obligation, or (2) reduce or have the effect of reducing the percentage of Obligations required for the affirmative vote or written consent to an amendment or modification of this Trust Agreement or the Purchase Agreement, or (3) modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental or amending agreement shall become effective as provided in Section 8.2.

(b) This Trust Agreement and the rights and obligations of the Owners of the Obligations, and the Purchase Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental or amending agreement, without the consent of any such Owners, but only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein reserved to the Trustee (for its own behalf) or the City, (2) to secure additional revenues or provide additional security or reserves for payment of the Obligations, (3) 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, (4) to provide for the appointment of a successor trustee pursuant to the terms hereof, (5) to preserve the exclusion of interest represented by the Tax-Exempt Obligations from gross income for purposes of federal or State income taxes and to preserve the power of the City to continue to issue bonds or incur other obligations the interest on which is likewise exempt from federal and State income taxes, (6) to cure, correct or supplement any ambiguous or defective provision contained herein or therein, (7) with respect to rating matters or (8) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not materially adversely affect the interests of the Owners of the Obligations as evidenced by a Special Counsel's Opinion delivered by the City to the Trustee. Any such supplemental or amending agreement shall become effective upon execution and delivery by the parties hereto or

thereto as the case may be. The Trustee may rely upon a Special Counsel's Opinion as conclusive evidence that any such supplemental or amending agreement complies with this Section.

*Section 8.2. Procedure for Amendment With Written Consent of Obligation Owners.*

(a) This Trust Agreement and the Purchase Agreement may be amended by supplemental or amending agreement as provided in this Section in the event the consent of the Owners of the Obligations is required pursuant to Section 8.1. A copy of such supplemental or amending agreement, together with a request to the Owners of the Obligations for their consent thereto, shall be mailed by the Trustee to each Owner of an Obligation at the address thereof as set forth on the registration books for the Obligations maintained pursuant to Section 2.13, but failure to mail copies of such supplemental or amending agreement and request shall not affect the validity of the supplemental or amending agreement when assented to as provided in this Section 8.2.

(b) Such supplemental or amending agreement shall not become effective unless there shall be filed with the Trustee the written consent of the Owners of a majority in principal amount of all Obligations then Outstanding (exclusive of Obligations disqualified as provided in Section 8.3) and a notice shall have been mailed as hereinafter in this Section provided. The consent of an Owner of an Obligation shall be effective only if accompanied by proof of ownership of the Obligations for which such consent is given, which proof shall be such as is permitted by Section 2.12. Any such consent shall be binding upon the Owner and on any subsequent Owner of the Obligation giving such consent (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner or a subsequent Owner giving such consent by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

(c) After the Owners of the required percentage of Obligations shall have filed their consents to such supplemental or amending agreement, the Trustee shall mail a notice to the Owners of the Obligations in the manner hereinbefore provided in this Section for the mailing of such supplemental or amending agreement of the notice of adoption thereof, stating in substance that such supplemental or amending agreement has been consented to by the Owners of the required percentage of Obligations and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental or amending agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental or amending agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Obligations after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within sixty (60) days.

*Section 8.3. Disqualified Obligations.* Obligations owned or held by or for the account of the City or by any person directly or indirectly controlled by, or under direct or indirect common control with the City (except any Obligations held in any pension or retirement

fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Obligations provided for in this Trust Agreement and shall not be entitled to vote upon, consent to, or take any other action provided for in this Trust Agreement; provided, however, that in determining whether the Trustee shall be protected in relying upon any such approval or consent of an Owner, only Obligations which a Responsible Officer of the Trustee actually knows to be owned or held by the City, or by any person directly or indirectly controlled by, or under direct or indirect common control with the City (except any Obligations held in any pension or retirement fund) shall be deemed not to be Outstanding unless all Obligations are so owned, in which case such Obligations shall be considered Outstanding for the purpose of such determination.

*Section 8.4. Effect of Supplemental Trust Agreement.* From and after the time any supplemental or amending agreement becomes effective pursuant to this Article VIII, this Trust Agreement or the Purchase Agreement, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Obligations Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental or amending agreement shall be deemed to be part of the terms and conditions of this Trust Agreement or the Purchase Agreement, as the case may be, for any and all purposes.

*Section 8.5. Endorsement or Replacement of Obligations Delivered After Amendments.* The Trustee may determine that Obligations delivered after the effective date of any action taken as provided in this Article shall bear a notation, by endorsement or otherwise, in form approved by the Trustee, as to such action. In that case, upon demand of the Owner of any Obligation Outstanding at such effective date and presentation of his Obligation for the purpose at the office of the Trustee, a suitable notation shall be made on such Obligation. The Trustee may determine that the delivery of substitute Obligations, so modified as in the opinion of the Trustee is necessary to conform to such Obligation Owners' action, which substitute Obligations shall thereupon be prepared, executed and delivered. In that case, upon demand of the Owner of any Obligation then Outstanding, such substitute Obligation shall be exchanged at the Designated Office of the Trustee, without cost to such Owner, for an Obligation of the same character then Outstanding, upon surrender of such Obligation Outstanding hereunder.

*Section 8.6. Amendatory Endorsement of Obligations.* The provisions of this Article shall not prevent any Obligation Owner from accepting any amendment or supplement as to the particular Obligations held thereby, provided that proper notation thereof is made on such Obligations.

## **ARTICLE IX COVENANTS, NOTICES**

*Section 9.1. Compliance With and Enforcement of Purchase Agreement.* The City shall perform all obligations and duties imposed on it under the Purchase Agreement and shall not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from

action, would or might be an Event of Default. The City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting any such action will deliver the same, or a copy thereof, to the Trustee.

*Section 9.2. Observance of Laws and Regulations.* The City shall well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, including its right to exist and carry on business as a political subdivision, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

*Section 9.3. Recordation and Filing.* The City shall file this Trust Agreement (or a memorandum thereof or a financing statement with respect thereto), and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Owners.

*Section 9.4. Further Assurances.* The Trustee (at the reasonable request of the City) and the City shall make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement and the Purchase Agreement and for the better assuring and confirming unto the Owners the rights and benefits provided herein.

*Section 9.5. Notification to the City of Failure to Make Payments.* The Trustee shall notify the City of any failure by the City to make any Payment or other payment required under the Purchase Agreement to be made to the Trustee, in writing and within one (1) Business Day of any such failure. Such notice shall not be a prerequisite for the occurrence of an Event of Default.

*Section 9.6. Business Days.* Except as otherwise required herein, if this Trust Agreement or the Purchase Agreement requires any party to act on a specific day and such day is not a Business Day, such party need not perform such act until the next succeeding Business Day, and such act shall be deemed to have been performed on the day required.

## **ARTICLE X LIMITATION OF LIABILITY**

*Section 10.1. Limited Liability of the City.* Except for the payment of Payments from the revenues from the Excise Taxes and the State Shared Revenues when due in accordance with the Purchase Agreement and the performance of the other covenants and agreements of the City contained in the Purchase Agreement and herein, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owners with respect to this

Trust Agreement or the terms, execution, delivery or transfer of the Obligations or the distribution of Payments to the Owners by the Trustee.

*Section 10.2. No Liability of the City for Trustee Performance.* The City shall have no obligation or liability to any of the other parties or to the Owners with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

*Section 10.3. Indemnification of the Trustee.*

(a) To the extent permitted by law, the City shall indemnify and save the Trustee and its officers, directors, agents and employees, harmless for, from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of: (1) the use, maintenance, condition or management of, or from any work or thing done on, the Prior Project or any portion thereof or interest therein by the City; (2) any breach or default on the part of the City in the performance of any of its obligations under this Trust Agreement and any other agreement made and entered into for purposes of the Prior Project or any interest therein; (3) any act of negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Prior Project; (4) any act of negligence of any assignee of, or purchaser from, the City or of any of its or their agents, contractors, servants, employees or licensees with respect to the Prior Project; (5) the acquisition of the Prior Project or any interest therein; (6) the actions of any other party, including but not limited to the operation or use of the Prior Project or interest therein by the City; (7) the ownership of the Prior Project or interest therein; (8) the exercise and performance by the Trustee of its powers and duties hereunder, under the Purchase Agreement or the Obligations or in connection with any document or transaction contemplated herewith or therewith or (9) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading in any official statement or other offering circular utilized in connection with the sale of the Obligations, including the costs and expenses of defending itself against any claim of liability arising under this Trust Agreement. No indemnification will be made under this Section or elsewhere in this Trust Agreement for willful misconduct, negligence or breach of duty under this Trust Agreement by the Trustee, or by its officers, agents, employees, successors or assigns. As security for the payment of amounts due under Section 7.5 and this Section, the Trustee shall be secured under this Trust Agreement by a lien prior to that for the Obligations. The obligations of the City hereunder for indemnification under this Section shall remain valid and binding notwithstanding, and shall survive, the payment or prepayment of principal represented by the Obligations or resignation or removal of the Trustee or the termination of this Trust Agreement.

(b) Promptly after determining that any event or condition which requires or may require indemnification by the City hereunder exists or may exist, or after receipt of notice of the commencement of any action in respect of which indemnity may be sought hereunder, the Trustee shall notify the City in writing of such circumstances or action (the "Notification"). Failure to give such notification shall not affect the right of the Trustee to receive the indemnification provided for herewith. Upon giving of the Notification, the Trustee shall cooperate fully with the City in order that the City may defend, compromise or settle any such matters or actions which may result in payment by the City hereunder. The City shall give

the Trustee notice of its election within fifteen (15) days after receiving the Notification whether the City, at its sole cost and expense, shall represent and defend the Trustee in any claim or action which may result in a request for indemnification hereunder. If the City timely gives the notice that it will represent and defend the Trustee thereafter, the Trustee shall not settle or compromise or otherwise interfere with the defense or undertakings of the City hereunder. The City shall not settle or compromise any claim or action against the Trustee without the written approval of the Trustee, except to the extent that the City shall pay all losses and the Trustee shall be fully released from such claim or action. If the City either fails to timely give its notice or notifies the Trustee that the City will not represent and defend the Trustee, the Trustee may defend, settle, compromise or admit liability as it shall determine in the reasonable exercise of its discretion, at the expense of the City. In the event the City is required to and does indemnify the Trustee as herein provided, the rights of the City shall be subrogated to the rights of the Trustee to recover such losses or damages from any other person or entity.

*Section 10.4. Opinion of Counsel.* Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, the Trustee shall be absolutely protected in relying thereon.

## **ARTICLE XI EVENTS OF DEFAULT AND REMEDIES OF OBLIGATION OWNERS**

*Section 11.1. Seller's Rights Held in Trust.* As provided herein, the Trustee holds in trust hereunder all of the Seller's rights in and to the Purchase Agreement, including without limitation all of the Seller's rights to exercise such rights and remedies conferred on the Seller pursuant to the Purchase Agreement as may be necessary or convenient to enforce payment of the Payments and any other amounts required to be deposited in the Payment Fund and enforcement of the pledge of the revenues from the Excise Taxes and the State Shared Revenues for the payment of the Obligations.

*Section 11.2. Remedies Upon Default; No Acceleration.* If an Event of Default shall happen, then and in each and every such case during the continuance of such Event of Default, the Trustee may, or upon request of the Owners of a majority in aggregate principal amount of the Obligations then Outstanding and receiving indemnity satisfactory to it shall, exercise one or more of the remedies granted pursuant to the Purchase Agreement; provided, however, that notwithstanding anything herein or in the Purchase Agreement to the contrary, there shall be no right under any circumstances to accelerate the payment dates of the Obligations or otherwise to declare any of the Payments not then past due or in default to be immediately due and payable.

*Section 11.3. Application of Funds.* All moneys received by the Trustee pursuant to any right given or action taken pursuant to the provisions of this Article XI or Section 9 of the Purchase Agreement shall be applied by the Trustee in the order following:

First, to the payment of the fees, costs and expenses of the Trustee and then of the Obligation Owners in declaring such Event of Default, including reasonable compensation to the Trustee's or the Owners' agents, attorneys and counsel and

Second, to the payment of the whole amount then owing and unpaid with respect to the Obligations and, in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Obligations, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

*Section 11.4. Institution of Legal Proceedings.* If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in aggregate principal amount of all Obligations then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners by a suit in equity or action at law for the specific performance of any covenant or agreement contained herein.

*Section 11.5. Non-waiver.* Except as otherwise provided in this Article, the Obligation Owners have the right to institute suit to enforce and collect the Payments as provided in the Purchase Agreement. No delay or omission of the Trustee or of any Owner of any of the Obligations to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article to the Trustee or the Owners of Obligations may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Obligation Owners.

*Section 11.6. Power of Trustee to Control Proceedings.* In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in aggregate principal amount of the Obligations then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Obligations, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, without the consent of the Owners of a majority in aggregate principal amount of the Obligations Outstanding.

*Section 11.7. Limitation on Obligation Owners' Right to Sue.*

(a) No Owner of any Obligation issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (1) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default hereunder; (2) the Owners of at least a majority in aggregate principal amount of all Obligations then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (3) said Owners shall have tendered to the Trustee indemnity

satisfactory to it against the costs, expenses, and liabilities to be incurred in compliance with such request and (4) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

(b) Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Obligations of any remedy hereunder; it being understood and intended that no one or more Owners of Obligations shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Obligations Outstanding hereunder.

(c) The right of any Owner of any Obligation to receive payment of said Owner's proportionate interest in the Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Trust Agreement.

## **ARTICLE XII MISCELLANEOUS**

### *Section 12.1. Defeasance.*

(a) If and when any Obligation Outstanding hereunder or portion thereof shall be paid and discharged in any one or more of the following ways:

(1) By paying or causing to be paid the principal and interest represented by such Obligation, as and when the same become due and payable;

(2) By depositing with a Depository Trustee, in trust for such purpose, at or before the payment date therefor, money which, together with the amounts then on deposit in the Payment Fund is fully sufficient to pay or cause to be paid all principal and interest represented by the Obligation due on such Obligation; or

(3) By depositing with a Depository Trustee, in trust for such purpose, Defeasance Obligations which are noncallable in such amount as shall be certified to the Trustee by a verification report of an independent nationally recognized certified public accountant or firm of such accountants acceptable to the Trustee, as being fully sufficient, together with the interest to accrue thereon and moneys then on deposit in the Payment Fund together with the interest to accrue thereon, to pay and discharge or cause to be paid and discharged all principal and interest of such Obligations at their respective payment or prepayment dates, which deposit may be made in accordance with the provisions of Section 7 of the Purchase Agreement.



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 of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time. The Trustee covenants not to employ as an employee, an agent or, with respect to the subject matter of this Trust Agreement, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating this Trust Agreement on behalf of the City within three years from the execution of this Trust Agreement, unless a waiver of Section 38-511, Arizona Revised Statutes, is provided by the City. No basis exists for the City to cancel this Trust Agreement pursuant to Section 38-511, Arizona Revised Statutes, as of the date hereof.

(b) To the extent applicable under Section 41-440, 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 Trust Agreement and may result in the termination of the services of the Trustee. 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 Trustee. 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.

*Section 12.4. Governing Law.* This Trust Agreement shall be construed and governed in accordance with the laws of the State.

*Section 12.5. Binding Effect and Successors.* This Trust Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Trust Agreement either the City or the Trustee is named or referred to, such reference shall be deemed to include successors or assigns thereof, and all the covenants and agreements in this Trust Agreement contained by or on behalf of the City or the Trustee shall bind and inure to the benefit of their respective successors and assigns thereof whether so expressed or not.

*Section 12.6. Execution in Counterparts.* This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Trust Agreement.

*Section 12.7. Destruction of Cancelled Obligations.* Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the City of any Obligations, the Trustee may destroy such Obligations and, upon the City’s request, deliver a certificate of such destruction to the City instead.

*Section 12.8. Headings.* The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement. All references herein to “Articles,” “Sections,” and other subdivisions are to the

corresponding Articles, Sections or subdivisions of this Trust Agreement; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

*Section 12.9. Parties Interested Herein.* Nothing in this Trust Agreement or the Obligations, expressed or implied, is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Trustee and the Owners, any legal or equitable right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, provisions and agreements in this Trust Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee and the Owners, from time to time, of the Obligations.

*Section 12.10. Waiver of Notice.* Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

*Section 12.11. Severability of Invalid Provisions.* In case any one or more of the provisions contained in this Trust Agreement or in the Obligations shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Obligations pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the day and year first above written.

\_\_\_\_\_, as Trustee

By.....  
Printed Name: .....  
Title: .....

CITY OF SAN LUIS, ARIZONA

By.....  
Mayor

ATTEST:

.....  
City Clerk

EXHIBIT

(Form of Obligations)

Unless this Obligation is presented by an authorized representative of The Depository Trust Company of New York, a New York corporation (“DTC”), to the Trustee (or any successor registrar) for registration of transfer, exchange, or payment, and any Obligation issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge, or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.<sup>1</sup>

Number: R-.....

Principal Amount: \$.....

CITY OF SAN LUIS, ARIZONA  
EXCISE TAX REVENUE REFUNDING OBLIGATION,  
[TAX-EXEMPT<sup>2</sup>/TAXABLE<sup>3</sup>] SERIES 2014[A<sup>2</sup>/B<sup>3</sup>]

<u>Interest Rate:</u>	<u>Payment Date:</u>	<u>Dated Date:</u>	<u>CUSIP:</u>
.....%	July 1, 20.....	_____, 2014	_____ .....

REGISTERED OWNER: CEDE & CO.<sup>1</sup>

PRINCIPAL AMOUNT: ..... DOLLARS

THIS IS TO CERTIFY THAT the registered owner identified above, or registered assigns, as the registered owner of this Excise Tax Revenue Refunding Obligation, [Tax-Exempt<sup>2</sup>/Taxable<sup>3</sup>] Series 2014[A<sup>2</sup>/B<sup>3</sup>] (this “Obligation”) is the owner of an undivided, participatory, proportionate interest in the right to receive certain “Payments” under and defined in that certain First Excise Tax Purchase Agreement, dated as of \_\_\_\_\_ 1, 2014 (the “Purchase Agreement”), by and between ..... (the “Trustee”), and the City of San Luis, Arizona, a municipal corporation under the laws of the State of Arizona (the “City”), which Payments and other rights and interests under the Purchase Agreement are held by the Trustee in trust under that certain First Excise Tax Trust Agreement, dated as of \_\_\_\_\_ 1, 2014 (the “Trust Agreement”), by and between the City and the Trustee. The Trustee maintains a corporate trust office for transfer of this Obligation (the “Designated Office”).

The registered owner of this Obligation is entitled to receive, subject to the terms of the Purchase Agreement, on the payment date set forth above, the principal amount set forth

<sup>1</sup> Insert so long as DTC is the Securities Depository.  
<sup>2</sup> Insert in the Tax-Exempt Obligation.  
<sup>3</sup> Insert in the Taxable Obligation.

above, representing a portion of the payments due designated as principal coming due, and to receive semiannually on January 1 and July 1 of each year commencing \_\_\_\_\_ 1, 201\_\_ (the "Interest Payment Dates"), until payment in full of said portion of principal or prepayment prior thereto, the registered owner's proportionate share of the portion of the Payments designated as interest coming due during the period commencing on the last date on which interest was paid and ending on the day prior to the Interest Payment Date or, if no interest has been paid, from the Dated Date specified above. Said interest is the result of the multiplication of said principal by the interest rate per annum set forth above. Interest shall be calculated on the basis of a 360-day year composed of twelve (12) months of thirty (30) days each.

Said amounts representing the registered owner's share of the Payments designated as interest are payable in lawful money of the United States of America by check mailed when due by first class mail by the Trustee to the registered owner in whose name this Obligation is registered at the close of business on the fifteenth (15th) day of the calendar month next preceding the Interest Payment Date at the address thereof as it appears on the registration books for the Obligations maintained by the Trustee. Said amounts representing the registered owner's share of the Payments designated as principal are payable when due upon surrender of this Obligation at the Designated Office. Principal and interest payable to any owner of \$1,000,000 or more in principal amount of the series of obligations of which this Obligation is a part (the "Obligations") may be paid by wire transfer in immediately available funds to an account in the United States of America if the owner makes a written request of the Trustee at least twenty (20) days before the date of payment specifying the account address. The notice may provide that it shall remain in effect for subsequent payments until otherwise requested in a subsequent written notice.

The Trustee has no obligation or liability to the registered owners of the Obligations for the payment of interest or principal represented by the Obligations. The Trustee's sole obligations are to administer, for the benefit of the registered owners of the Obligations, the various funds and accounts established pursuant to the Trust Agreement. (The recitals, statements, covenants and representations made in this Obligation shall be taken and construed as made by and on the part of the City, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.)

This Obligation has been executed and delivered by the Trustee pursuant to the terms of, and for the purposes described in, the Trust Agreement. The City is authorized to enter into the Purchase Agreement and the Trust Agreement under the laws of the State of Arizona and by resolution of the Mayor and Council of the City adopted October 22, 2014. Reference is hereby made to the Purchase Agreement and the Trust Agreement (copies of which are on file at the Designated Office) for further definitions, the terms, covenants and provisions pursuant to which the Obligations are delivered, the rights thereunder of the registered owners of the Obligations, the terms under which the Trust Agreement or the Purchase Agreement may be modified or supplemented, the rights, duties and immunities of the Trustee and the security for, and the rights and obligations of the City under the Purchase Agreement (including with respect to certain obligations secured on a prior lien basis, and to be secured on a parity lien basis, with the security for the Payments and to certain limitations on such security), to all of the provisions of which Purchase Agreement and Trust Agreement the registered owner of this Obligation, by

acceptance hereof, assents and agrees. (To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement and the Purchase Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal represented by all of the Obligations then outstanding, and may be amended without such consent under certain circumstances but in no event such that the interests of the owners of the Obligations are adversely affected, provided that no such amendment shall impair the right of any owner to receive in any case such owner's proportionate share of any Payment thereof in accordance with such owner's Obligation.)

The obligation of the City to make the Payments does not represent or constitute a general obligation of the City for which the City is obligated to levy or pledge any form of taxation nor does the obligation to make the Payments under the Purchase Agreement constitute an indebtedness of the City, the State of Arizona or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction or otherwise.

Neither the Trustee nor the registered owners of the Obligations shall have any right under any circumstances to accelerate the payment date of the Obligations or otherwise declare any of the Payments not then past due or in default to be immediately due and payable. (This Obligation represents an interest in a limited obligation of the City (as described herein), and no member of the Mayor and Council, officer or agent, as such, past, present or future, of the City shall be personally liable for the payment hereof.)

The Obligations are executed and delivered only in fully registered form in denominations of \$5,000 of principal represented by the Obligations due on a specific payment date or integral multiples thereof. The Obligations shall not be transferable or exchangeable, except as provided in the Trust Agreement.

This Obligation may be exchanged for an Obligation or Obligations of like series and aggregate payment amount in authorized denominations having the same maturity date and interest rate.

This Obligation is transferable by the registered owner hereof, in person or by his attorney duly authorized in writing, at the Designated Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement and upon surrender and cancellation of this Obligation. Upon such transfer a new Obligation or Obligations, of authorized denomination or denominations, for the same aggregate principal amount will be delivered to the transferee in exchange therefor. The City and the Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, whether or not this Obligation shall be overdue, and the City and the Trustee shall not be affected by any notice to the contrary.

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

[The Trustee may, but shall not be obligated to, exchange or register the transfer of this Obligation (i) if this Obligation has been selected for prepayment, in whole or in part, or

(ii) during a period of fifteen (15) days preceding the giving of a notice of prepayment. If this Obligation is transferred after having been selected for prepayment, any notice of prepayment which has been given to the transferor shall be binding on the transferee, and a copy of the notice of prepayment shall be delivered by the Trustee to the transferee along with the duly registered Obligation or Obligations.<sup>1]</sup>

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

[Principal represented by the Obligations is not subject to prepayment prior to their stated payment dates.<sup>2]</sup>

[Principal represented by the Obligations payable before or on July 1, 20\_\_ is not subject to prepayment. Principal represented by the Obligations payable on or after July 1, 20\_\_, is subject to prepayment in such order and from such principal amounts payable as may be selected by the City, in whole or in part on any date on or after July 1, 20\_\_, at a price equal to the principal amount to be prepaid, together with accrued interest to the date fixed for prepayment without a premium.

Principal represented by the Obligations payable on July 1, 20\_\_, 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 interest accrued to the date of prepayment, but without premium:

<u>Year Prepaid</u>	<u>Principal Amount Prepaid</u>
20__	\$ _____
20__	_____

Whenever Obligations payable on July 1, 20\_\_, are purchased, prepaid (other than pursuant to mandatory prepayment) or delivered by the City to the Trustee for cancellation, the principal amount of the Obligations payable on July 1, 20\_\_, so retired shall satisfy and be credited against the mandatory prepayment requirements for such Obligations payable on July 1, 20\_\_, for such years as the City may direct.

The Trustee shall give notice of any prepayment of this Obligation as provided above no more than 60 nor less than 30 calendar days prior to the prepayment date to the registered owner at its address shown on the registration books maintained by the Trustee. A certificate of the Trustee shall conclusively establish the mailing of any such notice for all purposes.

If at the time of mailing of the notice of prepayment there has not been deposited with the Trustee moneys or eligible securities sufficient to prepay and other requirements set

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<sup>1</sup> Insert in the Tax-Exempt Obligation.

<sup>2</sup> Insert in the Taxable Obligation.

forth in the Trust Agreement are not met, such notice shall state that it is conditional, subject to the deposit of moneys sufficient for the prepayment and satisfaction of such conditions. If the principal represented by the Obligations is subject to prepayment and if on the prepayment date moneys for the prepayment thereof are held by the Trustee and those other conditions are met, thereafter such principal to be prepaid shall cease to bear interest, and shall cease to be secured by, and shall not be deemed to be outstanding under, the Trust Agreement.

The Trustee may, but shall not be obligated to, register the transfer of this Obligation (i) if this Obligation has been selected for prepayment, or (ii) during a period of fifteen (15) days preceding the giving of a notice of prepayment. If this Obligation is so transferred, any notice of prepayment which has been given to the transferor shall be binding on the transferee, and a copy of the notice of prepayment shall be delivered by the Trustee to the transferee along with the duly registered Obligation.<sup>1]</sup>

This Obligation shall not be entitled to any security or benefit under the Trust Agreement until executed by the Trustee.

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

Date of Execution: .....

....., as Trustee

By.....  
Authorized Representative

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<sup>1</sup> Insert in the Tax-Exempt Obligation.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned ..... (the "Transferor"), hereby sells, assigns and transfers unto ..... (the "Transferee"), whose address is ..... and whose social security number (or other federal tax identification number) is

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF TRANSFEREE

.....  
.....

the within certificate and all rights thereunder, and hereby irrevocably constitutes and appoints ..... as attorney to register the transfer of the within certificate on the books kept for registration and registration of transfer thereof, with full power of substitution in the premises.

Date: .....  
SIGNATURE(S) GUARANTEED BY:

.....  
Firm or Bank

.....  
Authorized Signature

Signature(s) guaranteed by a guarantor institution participating in the Securities Transfer Agents Medallion Program or other guarantee program acceptable to the Trustee or Registrar

.....  
NOTICE: No transfer will be registered and no new certificate will be issued in the name of the Transferee, unless that signature(s) to this assignment correspond(s) with the name as it appears on the face of the within certificate in every particular, without alteration or enlargement or any change whatever and name, address and the Social Security Number or federal employee identification number of the Transferee is supplied

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

- TEN COM - as tenants in common
- TEN ENT - as tenants by the entireties
- JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT/TRANS MIN ACT - ..... Custodian for .....  
(Cust.) (Minor)

under Uniform Gifts/Transfers to Minors Act of .....  
(State)

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

FIRST AMENDMENT  
TO  
LOAN REPAYMENT AGREEMENT

**THIS FIRST AMENDMENT TO LOAN REPAYMENT AGREEMENT** is dated as of \_\_\_\_\_ 1, 2014 (this “Amendment”), and amends the Loan Repayment Agreement, dated as of February 1, 2009 (the “Agreement”), by and between the **CITY OF SAN LUIS, ARIZONA**, a municipal corporation and political subdivision of the State of Arizona (the “City”), and the **GREATER ARIZONA DEVELOPMENT AUTHORITY**, a body corporate and politic constituting a governmental instrumentality duly organized and existing within the State of Arizona under the Constitution and laws of the State of Arizona (“GADA”).

WITNESSETH:

WHEREAS, in order to finance and refinance the costs of the acquisition and construction of certain improvements in the City (the “Series 2005 Project”), the City of San Luis Civic Improvement Corporation (the “Corporation”) issued its Municipal Facilities Excise Tax Revenue Bonds Series 2005, in the aggregate principal amount of \$40,000,000 pursuant to that certain Trust Indenture, dated as of October 1, 2005, between the Corporation and U.S. Bank National Association, as trustee; and

WHEREAS, in connection therewith, the Corporation entered into a Leaseback Agreement, dated as of October 1, 2005 (the “Leaseback Agreement”), with the City, whereby the City leases back from the Corporation the Series 2005 Project; and

WHEREAS, the lease payments and other amounts due under the Leaseback Agreement to be made by the City are secured by a pledge of the Excise Taxes and the State Shared Revenues (as such terms and all other undefined terms hereafter used are hereinafter defined); and

WHEREAS, thereafter in order to finance and/or refinance the costs of the acquisition and renovation of a building containing approximately 84,000 rentable square feet and purchase of land; reimbursement for cost overruns associated with miscellaneous capital improvements for the City; funding deposits, if any, to an agreement reserve fund; and paying costs and expenses incidental and related to the sale and issuance of the GADA Bonds (collectively, the “2009 Project”), the City borrowed \$13,750,000 from GADA pursuant to the Agreement; and

WHEREAS, in order to obtain the funds with which it will make the loan pursuant to the Agreement, GADA issued and sold the GADA Bonds; and

WHEREAS, Section 6 of the Agreement provides that “So long as any amounts due [under the Agreement] remain unpaid or unprovided for, the City shall not pledge the revenues

from the Excise Taxes and the State Shared Revenues to the repayment of any obligations without the consent of GADA, such consent to not be unreasonably withheld”; and

WHEREAS, it has been requested that, if the lease payments and other amounts due under the Leaseback Agreement are paid in full or irrevocable provision for such payment pursuant thereto is made, GADA consents to pledge of the revenues from the Excise Taxes and the State Shared Revenues under certain circumstances on a parity with the pledge pursuant to the Agreement;

NOW, THEREFORE, PURSUANT TO LAW AND FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREINAFTER CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

Section 1. Definitions. The terms used herein and not otherwise defined hereinabove have the meanings assigned to them in the Agreement. In addition, the Agreement is hereby amended to add the following definition to Section 1 thereof:

“Parity Lien Obligations” has the meaning provided in Section 3.

Section 2. Amendments.

(a) Section 3 of the Agreement is hereby amended by adding the following as the third to the last sentence thereof:

Except as limited by Sections 10(a)(iii) and 15 and by the corresponding sections in any agreement for any additional loan from GADA or for any loan from WIFA subject to Section 49-1225(F) or 49-1245(F), Arizona Revised Statutes, hereinafter consummated (collectively, “Additional Agency/Authority Loan Agreements”), the rights of GADA to payment from the revenues from the Excise Taxes and the State Shared Revenues are on a parity with the rights to payment from the revenues from the Excise Taxes and the State Shared Revenues of the Parity Lien Obligations which may include Additional Agency/Authority Loan Agreements.

(b) Section 6 of the Agreement is hereby deleted in its entirety and replaced with the following and GADA hereby consents thereto:

The City shall not incur any Parity Lien Obligations until the Leaseback Agreement has been paid in full or irrevocable provision for such payment has been made. Thereafter, so long as any amounts due hereunder remain unpaid or unprovided for, the City shall not further encumber the revenues from the Excise Taxes and the State Shared Revenues on a basis equal to the pledge hereunder unless the revenues from the Excise Taxes plus the State Shared Revenues, when combined mathematically for such purpose only, in the most recently completed fiscal year of the City, shall have amounted to at least two (2) times the highest combined interest and principal requirements for any succeeding fiscal year of the City for this Agreement and any Parity Lien Obligations secured

or so proposed to be secured by such pledge of the revenues from the Excise Taxes and the State Shared Revenues on a parity of lien therewith. For purposes of this Section, any variable rate indebtedness shall be assumed to bear interest at the maximum permissible rate.

(c) Section 18 of the Agreement is hereby amended by adding the following as the last subsection thereof:

(e) Notwithstanding any other provision of this Agreement to the contrary, the obligation to make payments or restore any deficiency pursuant to this section shall be subject to the obligation to make payments with respect to this Agreement and the Parity Lien Obligations.

Section 3. Miscellaneous.

(a) Except as otherwise provided by this Amendment, the Agreement is hereby ratified and confirmed in all respects.

(b) This Amendment constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, supplemented, altered or changed in any respect except by a written document signed by both GADA and the City.

(c) Any term or provision of this Amendment found to be prohibited by law or unenforceable or which would cause this Amendment to be invalid, prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, causing the remainder of this Amendment to be invalid, prohibited by law or unenforceable.

(d) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever and wherever appropriate.

(e) The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 4. Covenant as to Conflict of Interest. Section 38-511, Arizona Revised Statutes, provides that the City and GADA may, within three years after its execution, cancel any contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or GADA, respectively, 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 of the contract with respect to the subject matter of the contract. In addition, the City or GADA may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or GADA, respectively, from any other party to the contract arising as a result of the contract.

Section 5. Covenant as to Immigration Laws. Section 23-214, Arizona Revised Statutes, provides that every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-verify program. The City warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with the E-verify program. A breach of the foregoing warranty regarding compliance with immigration laws and regulations shall be deemed an event of default under Section 10 of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the first day of \_\_\_\_\_, 2014.

GADA:

GREATER ARIZONA DEVELOPMENT  
AUTHORITY

By.....  
Sandy Sutton, Executive Director

City:

THE CITY OF SAN LUIS, ARIZONA

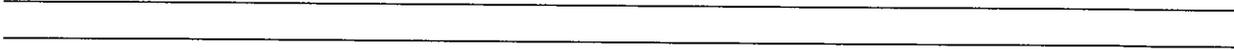
By.....  
Mayor

ATTEST:

.....  
City Clerk

APPROVED AS TO FORM:

.....  
City Attorney



**ESCROW TRUST AGREEMENT**

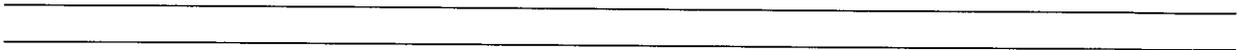
by and between

**CITY OF SAN LUIS, ARIZONA,**

and

\_\_\_\_\_,  
as Escrow Trustee

Dated as of \_\_\_\_\_ 1, 2014



## ESCROW TRUST AGREEMENT

Funded: \_\_\_\_\_, 2014

THIS ESCROW TRUST AGREEMENT, dated as of \_\_\_\_\_ 1, 2014 (this "Agreement"), by and between the CITY OF SAN LUIS, ARIZONA (the "City"), a municipal corporation of the State of Arizona, for the benefit of the SAN LUIS CIVIC IMPROVEMENT CORPORATION (the "Corporation"), and \_\_\_\_\_, a national banking association organized under the laws of the United States of America with the authority to exercise trust powers under the laws of the State of Arizona, as escrow trustee (the "Escrow Trustee"),

### WITNESSETH:

WHEREAS, the Mayor and Council of the City authorized this Agreement with the Escrow Trustee with respect to the safekeeping and handling of the moneys and securities to be held in trust for the payment of the Corporation's Municipal Facilities Excise Tax Revenue Bonds, Series 2005, dated as of October 19, 2005 (the "Bonds Being Refunded") as further described in Exhibit "A" hereto;

NOW, THEREFORE, in consideration of the mutual provisions and covenants, conditions and agreements contained herein, the City and the Escrow Trustee agree as follows:

Section 1. On \_\_\_\_\_, 2014 (the "Delivery Date"), there was deposited (i) cash in the amount of \$ \_\_\_\_\_ (the "Initial Cash Deposit") and (ii) the securities described in Exhibit "B" attached hereto (the "Securities"), all of which are and shall be only obligations issued or guaranteed by the United States of America which are not callable (or additional funds held in the Debt Service Reserve Fund associated with the Bonds Being Refunded and released on the Delivery Date, sufficient to permit the Escrow Trustee to purchase the Securities on the Delivery Date), to be held by the Escrow Trustee in a special and separate trust fund, designated as the "City of San Luis, Arizona (2014) Trust Fund" (the "Trust Fund"). As determined in the report of Grant Thornton, LLP regarding the Bonds Being Refunded (the "Special Report"), the maturing principal amount of the Securities, together with the scheduled interest thereon and the Initial Cash Deposit are sufficient to assure that the amounts available in the Trust Fund will be sufficient to pay when due the interest and premium, if any, on and the principal of the Bonds Being Refunded as the same mature or are redeemed.

Section 2. (A) The Escrow Trustee shall, at all times, hold the Initial Cash Deposit and the Securities in the Trust Fund for the benefit of the Corporation and of the registered owners of the Bonds Being Refunded and shall maintain the Trust Fund wholly segregated from other funds and securities on deposit with the Escrow Trustee, shall never commingle the Initial Cash Deposit or the Securities with other funds or securities of the Escrow Trustee and shall never at any time use, loan or borrow the same in any way so that sufficient funds shall be available to pay the interest requirements of the Bonds Being Refunded as the same accrue and become due and payable from time to time and to pay the principal of and interest on the Bonds Being Refunded as the same shall become due and payable on the date the

Bonds Being Refunded are to be paid or redeemed as set forth in Exhibits "A" and "C" hereto which conform with similar schedules contained in the Special Report (collectively, the "Payment Schedules").

(B) The Escrow Trustee shall reinvest cash balances in excess of \$1,000.00 held in the Trust Fund on each January 1 and July 1 during the term hereof, to the extent not required for the payment of the principal of and redemption premium and interest on the Bonds Being Refunded on such date, in United States Treasury Certificates of Indebtedness, State and Local Government Series ("SLGS"), at a zero percent (0.0%) interest rate, maturing on the next succeeding semiannual debt service payment date for the Bonds Being Refunded (the "Restricted Reinvestment Obligations"), provided that amounts which may not be so invested shall be held in cash and shall not be invested. The Initial Cash Deposit shall be held in the Trust Fund in cash and shall not be invested. Such investments shall be made only to the extent permitted by, and shall be made in accordance with, the applicable statutes, rules and regulations governing such investments issued by the Bureau of Public Debt. Such rules and regulations currently require that a subscription for purchase of the investment be submitted at least seven (or, for subscriptions of less than \$10,000,000, five) but no more than 60 days prior to the date of investment. If the Department of the Treasury (or the Bureau of Public Debt) of the United States suspends the sale of SLGS causing the Escrow Trustee to be unable to purchase SLGS, then the Escrow Trustee will take the following actions: On the date the Escrow Trustee would have purchased SLGS had the Escrow Trustee been able to do so, the Escrow Trustee shall purchase non-callable and non-prepayable obligations issued or guaranteed as to full and timely payment by the United States of America maturing no more than 90 days after the date of purchase (the "Alternate Investments"). The purchase price of the Alternate Investment shall be as close as possible to the principal amount of the SLGS that would have been purchased on such date if they had been available for purchase and shall in no event be more than the amount payable at such maturity on such investment. The Escrow Trustee shall purchase each Alternate Investment at a price no higher than the fair market value of the Alternate Investment and shall maintain records demonstrating compliance with this requirement. On the maturity of each Alternate Investment, the Escrow Trustee shall pay the difference between the total of the receipts on the Alternate Investment and the purchase price of the Alternate Investment to the City with a notice to the City that such amount must be paid to the Internal Revenue Service pursuant to Internal Revenue Service Revenue Procedure 95-47. If the Alternate Investment matures more than 29 days prior to the next succeeding interest payment date on the Bonds Being Refunded on which such proceeds will be needed to pay principal of and premium, if any, and interest on the Bonds Being Refunded, the Escrow Trustee shall treat such amounts as an invested balance available for reinvestment and shall take all reasonable steps to invest such amounts in SLGS (or additional Alternate Investments as provided in this Section). The Escrow Trustee shall hold balances not so invested in accordance with Section 4 hereof.

(C) The Escrow Trustee may sell or redeem the Securities in advance of their maturity dates and invest the proceeds of such sale or redemption or other moneys credited to the Trust Fund in connection with such sale or redemption in other non-callable obligations issued or guaranteed by the United States of America (the "Substitute Securities") only upon receipt of written instructions from the Finance Director of the City to do so and receipt by the parties hereto and the City of (1) an opinion in form and substance satisfactory to

them from a nationally recognized bond counsel to the effect that such action will not affect adversely the status of the interest on the Bonds Being Refunded or the Bonds Being Refunded for federal income tax purposes and will not affect adversely the right of the City to issue obligations the interest on which is excludable from gross income for federal income tax purposes and (2) a report from a nationally recognized accountant or firm of accountants verifying the accuracy of the arithmetic computations of the adequacy of the proceeds from the liquidation together with any other moneys and the maturing principal of and interest on the Substitute Securities to be credited to the Trust Fund, to pay when due the interest on the Bonds Being Refunded and the principal and premiums on the Bonds Being Refunded as they become due at maturity or upon prior redemption. Upon any such sale or redemption of investments and reinvestment, any amounts not needed in the Trust Fund to provide for payments on the Bonds Being Refunded, as shown by such accountant's report, may be withdrawn from the Trust Fund at the direction of the City and applied for the benefit of the City in accordance with applicable law.

(D) If on the Delivery Date the Escrow Trustee did not receive any of the Securities (the "Failed Escrow Securities"), the Escrow Trustee may have accepted, as temporary substitutes, cash or, at the same purchase price, other obligations issued or guaranteed by the United States (the "Temporary Escrow Securities") the payments on which are scheduled to provide, as determined by an independent certified public accountant, along with such cash, at least the same amounts of moneys on or before the same dates as the Failed Escrow Securities for which they were substituted. (The Escrow Trustee relied upon a report of a firm of certified public accountants that the condition in the preceding sentence was satisfied.) If the Temporary Escrow Securities were delivered, thereafter, upon delivery to the Escrow Trustee of the Failed Escrow Securities together with any amounts paid thereon subsequent to the Delivery Date, the Escrow Trustee shall return an amount of such cash and the Temporary Escrow Securities, and any amount paid, thereon subsequent to the Delivery Date, corresponding to the Failed Escrow Securities which the Temporary Escrow Securities replaced.

Section 3. The debt service on the Bonds Being Refunded shall be paid from the following sources in the order listed below:

- (1) The Initial Cash Deposit.
- (2) Cash receipts from the Securities, the Restricted Reinvestment Obligations, the Alternate Investments, the Substitute Securities or the Temporary Escrow Securities.

Amounts available from such sources shall be applied consistently with the Payment Schedules.

Section 4. Any moneys credited to the Trust Fund which are not invested in the Securities, the Restricted Reinvestment Obligations, the Alternate Investments, the Substitute Securities or the Temporary Escrow Securities as provided herein shall be held as a demand deposit and shall be secured in the same manner as deposits of public moneys or invested in direct general obligations of the United States of America.

Section 5. Moneys credited to the Trust Fund shall be held as a demand deposit and shall be secured in the same manner as deposits of public moneys. All moneys in the Trust Fund shall be held uninvested, and neither the Escrow Trustee nor the City nor any other person shall receive any investment return from the same.

Section 6. (A) The Escrow Trustee shall make timely payments from the Trust Fund to U.S. Bank National Association, as trustee with respect to the Bonds Being Refunded in the amounts and on the dates necessary to permit the payment when due of the principal and interest with respect to the Bonds Being Refunded as the same become due and payable as set forth in the Payment Schedules.

(B) Notice of the refunding of the Bonds Being Refunded, including in the form as shown in Exhibit “D” hereto, shall be provided to The Depository Trust Company, New York, New York (“DTC”), and through the Electronic Municipal Market Access system (“EMMA”).

(C) Notice of the redemption of the Bonds Being Refunded, including in the form as shown in Exhibit “E” hereto, shall be provided to DTC and through EMMA, with such additional information as is deemed appropriate.

Section 7. If, at any time or times, there are insufficient funds on hand in the Trust Fund for the payment of the principal of and interest on the Bonds Being Refunded as the same become due, the Escrow Trustee shall promptly notify the City of such deficiency by telephone, by electronic mail and by registered first class mail, postage prepaid.

Section 8. On or before each February 15 and August 15 during the term of this Agreement, the Escrow Trustee shall submit to the City a report covering all moneys the Escrow Trustee has received and all payments the Escrow Trustee has made under the provisions hereof during the six-month period ending on the preceding February 1 or August 1. Each such report also shall list all moneys on deposit with the Escrow Trustee as of the date of the report.

Section 9. (A) The Escrow Trustee shall receive the sum of \$\_\_\_\_\_ upon the date of establishment of the Trust Fund and shall be further compensated pursuant to its fee and expense schedule as attached as Exhibit “F” hereto.

(B) The Escrow Trustee hereby waives and releases any claim which it otherwise would have, as a lien or otherwise, against the Trust Fund for any payment and shall seek such amounts from the City only for the payment of fees of the Escrow Trustee for all other services in connection with services of the Escrow Trustee hereunder.

Section 10. When all amounts payable with respect to the Bonds Being Refunded have become due and the Escrow Trustee has on deposit all moneys necessary for the payment of such amounts, and in any event on the business day succeeding the date the last of the Bonds Being Refunded is paid, the Escrow Trustee shall transfer to the City all moneys and investments credited to the Trust Fund in excess of the amounts payable on the Bonds Being Refunded.

Section 11. The registered owners of the Bonds Being Refunded have a beneficial interest in the Trust Fund, and the City's Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A and Taxable Series 2014B (together, the "Pledged Revenue Obligations"), have been delivered to and accepted by the registered owners thereof in reliance upon the irrevocable character of the Trust Fund. This Agreement shall not be revoked and shall not be amended in any manner which may adversely affect the rights herein sought to be protected until the provisions of this Agreement have been fully carried out.

Section 12. (A) The Escrow Trustee shall be under no obligation to inquire into or be otherwise responsible for the performance or nonperformance by the City of any of its obligations or to protect any of the rights of the City under any of the proceedings with respect to the Bonds Being Refunded or the Pledged Revenue Obligations. The Escrow Trustee shall not be liable for any act done or step taken or omitted by it or for any mistake of fact or law or for anything which it may do or refrain from doing except for its negligence or its default in the performance of any obligation imposed upon it under the terms of this Agreement. The Escrow Trustee shall not be liable or responsible for any loss resulting from any investment made pursuant to this Agreement in compliance with the provisions hereof.

(B) If the Escrow Trustee renders any service hereunder not provided for in this Agreement, or the Escrow Trustee is made a party to or intervenes in any litigation pertaining to this Agreement or institutes interpleader proceedings relative hereto, the Escrow Trustee shall be compensated reasonably by the City for such extraordinary services and reimbursed for any and all claims, liabilities, losses, damages, fines, penalties, and expenses, including out-of-pocket and incidental expenses and legal fees occasioned thereby, unless such claim, liability, loss, damages, fine, penalty, and expense shall have been finally adjudicated to have resulted from the bad faith or gross negligence of the Escrow Trustee.

(C) The Escrow Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers and shall be entitled to advice of counsel concerning all matters of trusts hereof and duties hereunder. The Escrow Trustee may consult with counsel, and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Escrow Trustee hereunder in good faith and in reliance thereon. The Escrow Trustee shall be protected in acting and relying upon any notice, order, requisition, request, consent, certificate, order, opinion, affidavit, letter, telegram or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the proper person or persons. The Escrow Trustee shall not be required to risk or expend its own funds before taking any action under this Agreement.

Section 13. The City shall have the right to audit the books, records and accounts of the Escrow Trustee insofar as they pertain to the Trust Fund.

Section 14. (A) Except as otherwise provided herein, neither this Agreement nor the Trust Fund may be assigned by the Escrow Trustee without the prior written consent of the City unless the Escrow Trustee is required by law to divest itself of its interest in its corporate trust department or unless the Escrow Trustee sells or otherwise assigns all or substantially all of

its corporate trust business, in which event the Trust Fund shall be continued by the successor in interest of the Escrow Trustee.

(B) Notwithstanding the foregoing subsection, any trust company or national banking association into which the Escrow Trustee or its successor may be converted, merged or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business as a whole shall be the successor of the Escrow Trustee with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 15. If any section, paragraph, subdivision, sentence, clause or phrase hereof shall for any reason be held illegal or unenforceable, such decision shall not affect the validity of the remaining portions hereof. The parties hereby declare that they would have executed this Agreement and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases hereof may be held to be illegal, invalid or unenforceable. If any provision hereof contains any ambiguity which may be construed as either valid or invalid, the valid construction shall be adopted. In construing this Agreement, it should be noted that the Bonds Being Refunded and the Pledged Revenue Obligations are intended to be obligations the interest on which is excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the provisions hereof should be construed to permit that result.

Section 16. (A) As required by the provisions of Section 38-511, Arizona Revised Statutes, notice is hereby given that the City may, within three years after its execution, cancel any contract, 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 of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time. No basis exists for the City to cancel this Agreement pursuant to Section 38-511, Arizona Revised Statutes, as of the date hereof.

(B) To the extent applicable under Section 41-440, Arizona Revised Statutes, the Escrow 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 Escrow Trustee of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of the Escrow Trustee. The City retains the legal right to randomly inspect the papers and records of the Escrow Trustee to ensure that the Escrow Trustee is complying with the above-mentioned warranty. The Escrow Trustee shall keep such papers and records open for random inspection during normal business hours by the Escrow Trustee. The Escrow 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.

Section 17. Notice shall be sufficient hereunder, if it is contained in a writing sent to the City at c/o City of San Luis, Arizona, 1090 East Union Street, P.O. Box 1170, City of San Luis, Arizona 85349, Attention: City Manager, and to the Escrow Trustee at \_\_\_\_\_, Attention: \_\_\_\_\_, or any other address which may be designated from time to time by any party in writing delivered to the City or the Escrow Trustee, as applicable.

Section 18. This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Arizona. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other with respect to the subject matter hereof, and no party hereto has made or shall be bound by any agreement or any representation to any other party which is not expressly set forth in this Agreement.

Section 19. This Agreement may be executed in several counterparts, each of which shall be an original, all of which together shall constitute but one instrument.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF SAN LUIS, ARIZONA, an Arizona municipal corporation

By.....  
Mayor

ATTEST:

.....  
City Clerk

....., as Escrow  
Trustee

By.....  
Authorized Officer

ACKNOWLEDGED BY:

.....  
as Trustee with respect to the Bonds  
Being Refunded

By.....  
Authorized Representative

EXHIBIT A

BONDS BEING REFUNDED

<u>Date</u>	<u>Interest</u>	<u>Principal</u>	<u>Debt Service Payments (1)</u>
01/01/2015	\$ _____	\$ 0.00	\$ _____
07/01/2015	_____	_____	_____

---

(1) The Bonds Being Refunded are to be redeemed on July 1, 2015.

Maturity dates, principal amounts and interest rates are as follows:

<u>Maturity Date</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2016	\$ 880,000	4.000%
2017	915,000	4.100
2018	955,000	4.125
2019	995,000	4.200
2020	1,035,000	4.250
2025	5,970,000	5.000
2030	7,545,000	4.500
2038	16,400,000	5.000

EXHIBIT B

REFUNDED BONDS ACCOUNT INVESTMENTS

<u>Type</u>	<u>Maturity Date</u>	<u>Par Amount</u>	<u>Rate</u>
		\$	%

EXHIBIT C

AMOUNTS SCHEDULED TO BE RECEIVED BY THE ESCROW TRUSTEE AND AMOUNTS REQUIRED TO BE TRANSFERRED BY THE ESCROW TRUSTEE TO THE TRUSTEE FOR THE BONDS BEING REFUNDED AND TO BE PAID ON THE BONDS BEING REFUNDED BY THE ISSUANCE OF CITY OF SAN LUIS, ARIZONA PLEDGED EXCISE TAX REVENUE REFUNDING OBLIGATIONS, TAX-EXEMPT SERIES 2014A AND TAXABLE SERIES 2014B

<u>Date</u>	Total Debt Service Requirement of the Bonds <u>Being Refunded</u>	Receipts From Securities Purchased With Proceeds of <u>Sale of Bonds</u>	<u>Excess Receipts</u>	<u>Cash Balance</u>
		\$	\$	\$

EXHIBIT D

NOTICE OF REFUNDING  
OF  
SAN LUIS CIVIC IMPROVEMENT CORPORATION  
MUNICIPAL FACILITIES EXCISE TAX REVENUE BONDS,  
SERIES 2005,  
DATED AS OF OCTOBER 19, 2005,  
DELIVERED ON OCTOBER 19, 2005,  
MATURING ON JULY 1, 2016, THROUGH AND  
INCLUDING JULY 1, 2038,  
ESCROW FUNDED: \_\_\_\_\_, 2014

Notice is hereby given that the above-described Bonds have been refunded in advance of their stated maturity dates by the establishment of an irrevocable trust with \_\_\_\_\_, as escrow trustee. Moneys which have been deposited in the irrevocable trust, will provide amounts sufficient to pay all principal of and interest on the Bonds as the same become due or are to be redeemed prior to their respective maturities.

The Bonds maturing on July 1, 2016, and thereafter will be paid on July 1, 2015, at a price equal to the principal amount thereof, plus interest accrued to the date of redemption.

Date: \_\_\_\_\_, 20....

\_\_\_\_\_, as Escrow Trustee

EXHIBIT E

NOTICE OF REDEMPTION  
OF  
SAN LUIS CIVIC IMPROVEMENT CORPORATION  
MUNICIPAL FACILITIES EXCISE TAX REVENUE BONDS,  
SERIES 2005,  
DATED AS OF OCTOBER 19, 2005,  
DELIVERED ON OCTOBER 19, 2005,  
MATURING ON JULY 1, 2016, THROUGH AND  
INCLUDING JULY 1, 2038,  
ESCROW FUNDED: \_\_\_\_\_, 2014

Notice is hereby given that the above-described Bonds will be redeemed prior to their stated maturity date on July 1, 2015.

Registered owners of the above-described Bonds are notified to present the same at the office of U.S. Bank National Association, on July 1, 2015, the date set for redemption. The above-described Bonds will be redeemed at a redemption price equal to the principal amount of each such Bond , plus interest accrued to the date of redemption. From and after July 1, 2015, no interest will be paid on the Bonds.

Dated: \_\_\_\_\_, 2015

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

EXHIBIT F

ESCROW TRUSTEE FEE AND EXPENSE SCHEDULE

CITY OF SAN LUIS, ARIZONA

§ \_\_\_\_\_  
PLEDGED EXCISE TAX REVENUE  
REFUNDING OBLIGATIONS,  
TAX-EXEMPT SERIES 2014A

§ \_\_\_\_\_  
PLEDGED EXCISE TAX REVENUE  
REFUNDING OBLIGATIONS,  
TAXABLE SERIES 2014B

OBLIGATION PURCHASE CONTRACT

\_\_\_\_\_, 2014

CITY OF SAN LUIS, ARIZONA  
1090 E. Union St.  
San Luis, AZ 85349

Ladies and Gentlemen:

The undersigned, on behalf of Stifel, Nicolaus & Company, Incorporated (the "Underwriter"), acting on its own behalf, offers to enter into the following agreement (this "Obligation Purchase Contract") with the City of San Luis, Arizona (the "Issuer"), which, upon the written acceptance by the Issuer of this offer, shall be binding upon the Issuer and upon the Underwriter. This offer is made subject to the written acceptance hereof by the Issuer on or before 5:00 p.m., Mountain Standard Time, on the date indicated above and shall be subject to withdrawal by the Underwriter upon notice delivered to the Issuer at any time prior to the acceptance hereof by the Issuer. The acceptance is made by the Issuer signing the signature line provided and delivering the signed page to the Underwriter. Delivery includes sending in the form of a facsimile or telecopy or via the internet as a portable document format (PDF) file or other replicating image attached to an electronic message. (Terms not otherwise defined in this Obligation Purchase Contract shall have the same meanings set forth in the Trust Agreement or in the Official Statement (as such terms are defined herein)).

1. Purchase and Sale of the Obligations.

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from \_\_\_\_\_, as trustee (the "Trustee"), and the Issuer shall cause the Trustee agrees to sell and execute and deliver to the Underwriter, all, but not less than all, of the Issuer's Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A, in the aggregate principal amount of \$ \_\_\_\_\_ (the "Tax-Exempt Obligations") and the Issuer's Pledged Excise Tax Revenue Refunding Obligations, Taxable Series 2014B, in the aggregate principal amount of \$ \_\_\_\_\_ (the "Taxable Obligations" and, together with the Tax-Exempt

Obligations, the "Obligations"), at the aggregate purchase price of \$ \_\_\_\_\_ (which represents the aggregate principal amount of the Obligations, plus net original issue premium of \$ \_\_\_\_\_, less Underwriter's compensation of \$ \_\_\_\_\_).

(b) Inasmuch as this purchase and sale represents a negotiated transaction, the Issuer further acknowledges and agrees that: (i) the transaction contemplated by this Obligation Purchase Contract is an "arm's length," commercial transaction between the Issuer and the Underwriter in which the Underwriter is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Issuer; (ii) the Underwriter has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Issuer on other matters) and the Underwriter has no obligation to the Issuer with respect to the offering contemplated hereby except the obligations expressly set forth in this Obligation Purchase Contract and Rule G-17 of the Municipal Securities Rulemaking Board; (iii) the Underwriter is acting solely in its capacity as underwriter for its own accounts and not as agent or fiduciary to the Issuer; (iv) the only obligations the Underwriter has to the Issuer with respect to the transaction contemplated hereby expressly are set forth in this Obligation Purchase Contract; and (v) the Issuer has consulted its own legal, accounting, tax, and other advisors, as applicable, to the extent it has deemed appropriate. The Issuer also hereby acknowledges that Greenberg Traurig, LLP, "Special Counsel," has represented the Underwriter in financing transactions for other political subdivisions and hereby waives any conflict of interest that may exist as a result of such representation.

(c) The Obligations shall (i) be dated, (ii) mature on the dates and in the principal amounts, (iii) bear interest at the rates payable commencing [January 1, 2015], and semiannually thereafter on each July 1 and January 1, and (iv) be subject to redemption, all as set forth on the respective Schedules hereto. The terms of the Obligations shall be as otherwise described in, and shall be executed and delivered by the Trustee pursuant to, a First Excise Tax Trust Agreement, to be dated as of \_\_\_\_ 1, 2014 (the "Trust Agreement"), substantially in the form previously submitted to the Underwriter with only such changes therein as shall be mutually agreed upon between the Underwriter and the Issuer. The Obligations represent undivided proportionate interests in a First Excise Tax Purchase Agreement, to be dated as of \_\_\_\_ 1, 2014 (the "Purchase Agreement"), between the Issuer and the Trustee, as seller.

2. Public Offering. The Underwriter shall make a *bona fide* public offering of all of the Obligations at prices not to exceed the public offering prices set forth on the Schedule hereto and may subsequently change such offering prices without any requirement of prior notice. The Underwriter may offer and sell any portion of the Obligations to certain dealers (including dealers depositing the Obligations into investment trusts) and others at prices lower than the public offering prices stated on the Schedule hereto.

3. The Official Statement.

(a) The Preliminary Official Statement, dated \_\_\_\_, 2014 (the "Preliminary Official Statement"), relating to the Obligations, including the cover page, the

inside front cover pages and appendices thereto, has been prepared for use in connection with the public offer, sale and distribution of the Obligations by the Underwriter, and the Issuer hereby ratifies the use by the Underwriter prior to the date hereof of the Preliminary Official Statement in connection with the public offering of the Obligations. The Issuer hereby deems, as of its date, the Preliminary Official Statement “final” (except for permitted omissions) by the Issuer for purposes of Section (b)(1) of Section 240.15c2-12, General Rules and Regulations, Securities Exchange Act of 1934, as amended (the “Rule”).

(b) The Issuer shall deliver or cause to be delivered to the Underwriter within seven (7) business days after the acceptance by the Issuer of this Obligation Purchase Contract and, in the event the Closing (as such term is hereinafter defined) is held less than seven (7) business days from the date hereof, upon request of the Underwriter, in sufficient time to accompany any confirmation requesting payment from any customers of the Underwriter, a reasonable number of copies of the Final Official Statement, dated of even date herewith (the “Official Statement” but if the Official Statement shall be amended prior to the date of delivery of the Obligations, the term “Official Statement” shall refer to such document as amended), relating to the Obligations, including the cover page, the inside front cover pages and appendices thereto, which shall be determined on behalf of the Issuer by the Finance Director of the Issuer to be a “final official statement” for purposes of Sections (b)(3) and (4) of the Rule by his execution thereof, the Final Official Statement to be substantially in the form of the Preliminary Official Statement with only such changes therein as shall be necessary to conform to the terms of this Obligation Purchase Contract and with such other changes and amendments to the date thereof as have been accepted by the Underwriter.

(c) The Official Statement shall be prepared for use in connection with the public offering, sale and distribution of the Obligations by the Underwriter, and the Issuer hereby authorizes the Official Statement and the information therein contained and the Issuer Documents (as such term is hereinafter defined) to be used by the Underwriter in connection with the public offering and sale of the Obligations.

(d) The Issuer shall not adopt any amendment to the Official Statement to which, after having been furnished with a copy, the Underwriter shall object in writing or which shall be disapproved by herein defined Special Counsel or the Underwriter.

(e) As of the date of acceptance hereof by the Issuer and until twenty-five (25) days after the original execution and delivery of the Obligations, the statements and information in the Official Statement shall be, and the statements and information in the Preliminary Official Statement, as of its date were, true, correct and complete in all material respects, and the statements and information in the Official Statement will not, and the statements and information in the Preliminary Official Statement as of its date did not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make such statements and information, in light of the circumstances under which they will be or were made, not misleading in any material respect.

(f) If, after the date of this Obligation Purchase Contract and until 25 days after the original execution and delivery of the Obligations, any fact or event occurs which

might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, not misleading, or if it is necessary to amend the Official Statement to comply with law, the Issuer shall notify the Underwriter and provide the Underwriter with such information as it may from time to time request, and if, in the opinion of the Underwriter such fact or event requires preparation and publication of an amendment to the Official Statement, the Issuer shall forthwith prepare and furnish, at the expense of the Issuer (in a form and manner approved by the Underwriter), a reasonable number of copies of amendments to the Official Statement so that the statements in the Official Statement as so amended will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or so that the Official Statement will comply with law. If such notifications shall be subsequent to the Closing, the Issuer shall furnish such legal opinions, certificates, instruments and other documents as the Underwriter may deem necessary to evidence the truth and accuracy of such amendment to the Official Statement.

4. Representations and Warranties and Covenants of the Issuer. The undersigned, on behalf of the Issuer, but not individually, hereby represents and warrants to and covenants with the Underwriter as it relates to the primary offering of the Obligations that:

(a) The Issuer is a municipal corporation duly incorporated and validly existing under the laws of the State of Arizona (the "State"), and has full and legal right, power and authority, and at the date of the Closing shall have full legal right, power and authority under the resolution of the Mayor and City Council of the Issuer authorizing the sale and execution and delivery of the Obligations adopted on [October 22, 2014] (the "Resolution"), (i) to enter into, execute and deliver this Obligation Purchase Contract; the Purchase Agreement; the Trust Agreement; a written undertaking by the Issuer to provide ongoing disclosure about the Issuer for the benefit of certain owners of the Obligations as required under paragraph (b)(5) of the Rule in form and substance satisfactory to the Underwriter (the "Undertaking"), which shall be substantially in the form described in the Official Statement, with such changes as may be agreed to in writing by the Underwriter; an escrow trust agreement, to be dated as of \_\_\_\_\_ 1, 2014 (the "Escrow Trust Agreement"), by and between the Issuer and \_\_\_\_\_, as escrow trustee (the "Escrow Trustee") and all documents required hereunder and thereunder to be executed and delivered by the Issuer (this Obligation Purchase Contract, the Purchase Agreement, the Resolution, the Trust Agreement, the Undertaking, the Escrow Trust Agreement and the other documents referred to in this clause (i) hereinafter referred to as the "Issuer Documents"), (ii) to cause the sale and execution and delivery of the Obligations to the Underwriter as provided herein, (iii) to carry out and consummate the transactions contemplated by the Issuer Documents and the Official Statement, (iv) to refinance the lease-purchase of the Prior Project (as such term is defined in the Purchase Agreement) and (v) to approve, execute and authorize the use and distribution, as applicable, of the Preliminary Official Statement and the Official Statement, and the Issuer has complied, and shall at the Closing be in compliance in all respects, with all applicable provisions of law and the Issuer Documents as they pertain to such transactions;

(b) By all necessary official action prior to or concurrently with the acceptance hereof, the Mayor and Council of the Issuer have duly authorized all necessary action

to be taken for (i) the adoption of the Resolution and the execution and delivery and sale of the Obligations, (ii) the approval, execution and delivery of, and the performance by the Issuer of the obligations on its part, contained in the Obligations and the Issuer Documents and (iii) the consummation by it of all other transactions contemplated by the Official Statement, the Issuer Documents and any and all such other agreements and documents as may be required to be executed, delivered and/or received by the Issuer in order to carry out, give effect to and consummate the transactions contemplated herein and in the Official Statement, and the Resolution (A) authorizes the execution and delivery of the Issuer Documents and the Obligations as well as the approval, execution and authorization of the use and distribution of the Preliminary Official Statement and the Official Statement and the selling of the Obligations to the Underwriter, (B) has been duly and validly adopted by the Issuer and (C) is in full force and effect;

(c) This Obligation Purchase Contract has been duly executed and delivered by the Issuer, and the other of the Issuer Documents (when the other of the Issuer Documents are executed and delivered by the other parties thereto) constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights; the Obligations, when executed and delivered and paid for in accordance with the Trust Agreement and this Obligation Purchase Contract, shall constitute legal, valid and binding obligations entitled to the benefits of the Trust Agreement and enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights and upon the execution and delivery of the Obligations as aforesaid, the Purchase Agreement and the Trust Agreement shall provide, for the benefit of the holders from time to time of the Obligations, the legally valid and binding pledge of and lien they purport to create as set forth in the Purchase Agreement and the Trust Agreement;

(d) The Issuer is not in breach of or default in any material respect under any applicable constitutional provision, law or administrative regulation of the State or the United States or any applicable judgment or decree or, subject to the limitation in paragraph (f) of this Section 4, any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer is or any of its property or assets are otherwise subject; no event has occurred and is continuing which constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default by the Issuer under any of the foregoing or the Issuer Documents and the execution and delivery of the Obligations, the Issuer Documents and the adoption of the Resolution and compliance with the provisions on the part of the Issuer contained therein shall not conflict with or constitute a breach of or default under any constitutional provision, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer is or to which any of its property or assets are otherwise subject nor shall any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Issuer to be pledged to secure the

Obligations or under the terms of any such law, regulation or instrument, except as provided by the Obligations and the Issuer Documents;

(e) All authorizations, approvals, licenses, permits, consents, orders and other matters of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the Issuer, of its obligation under the Issuer Documents and the Obligations have been duly obtained or, with respect to the refinancing of the lease-purchase of the Prior Project, the Issuer has no reason to believe they shall not be obtained, except for such approvals, consents and orders as may be required under the “blue sky” or securities laws of any jurisdiction in connection with the offering and sale of the Obligations and including particularly, but not by way of limitation, all reports required to be filed by the Issuer pursuant to Section 35-501, Arizona Revised Statutes, as amended;

(f) Except as otherwise indicated in the Official Statement, the Issuer has been and is in material compliance with all prior continuing disclosure undertakings undertaken by it pursuant to the Rule;

(g) The Obligations and the Issuer Documents conform to the descriptions thereof contained in the Official Statement, and the proceeds of the sale of the Obligations shall be applied as described in the Official Statement;

(h) There is no legislation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or threatened against the Issuer (i) affecting the existence of the Issuer or the titles of its officers to their respective offices; or (ii) affecting or seeking to prohibit, restrain or enjoin the sale or execution and delivery of the Obligations or the levy, collection and pledge of Excise Taxes and State Shared Revenues or the refinancing of the lease-purchase of the Prior Project; or (iii) in any way contesting or affecting the validity or enforceability of the Obligations or the Issuer Documents, or contesting the exclusion from gross income of interest on the Obligations for State income tax purposes or of interest on the Obligations for federal income tax purposes; or (iv) contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto; or (v) contesting the formation or powers of the Issuer or any authority for the sale and execution and delivery of the Obligations, the adoption of the Resolution or the execution and delivery of the Issuer Documents; or (vi) which, if decided adversely to the Issuer, would have a materially adverse effect on the financial condition of the Issuer or (vii) is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of the Obligations or the Issuer Documents;

(i) The Issuer has not granted a lien on, made a pledge of or agreed to apply the Excise Taxes, State Shared Revenues and other moneys payable under the Purchase Agreement, except as provided or permitted in the Purchase Agreement or as described in the Official Statement;

(j) Although the Underwriter has participated and will participate with the Issuer in the assemblage and preparation of the Preliminary Official Statement and the Official Statement, the Issuer acknowledges and agrees that the Issuer is primarily responsible for the content of the Preliminary Official Statement and the Official Statement;

(k) Unless the Official Statement is amended or supplemented pursuant to paragraph (f) of Section 3 of this Obligation Purchase Contract, at all times subsequent to the acceptance by the Issuer hereof, during the period up to and including the date of the Closing, the Official Statement, as of its date, did not, as of the date hereof, does not and, hereafter, shall not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, misleading;

(l) The Issuer shall apply, or cause to be applied, the proceeds from sale of the Obligations as provided in and subject to all of the terms and provisions of the Issuer Documents and shall not take or omit to take any action which action or omission will adversely affect exclusion from gross income for federal income tax purposes or for State income tax purposes of the interest on the Obligations;

(m) The Issuer shall furnish such information and execute such instruments and take such action in cooperation with the Underwriter as the Underwriter may reasonably request (i) to (A) qualify the Obligations for offer and sale under the “blue sky” or other securities laws and regulations of such States and other jurisdictions in the United States as the Underwriter may designate and (B) determine the eligibility of the Obligations for investment under the laws of such States and other jurisdictions and (ii) to continue such qualifications in effect so long as required for the distribution of the Obligations (provided, however, that the Issuer shall not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any jurisdiction) and shall advise the Underwriter immediately of receipt by the Issuer of any notification with respect to the suspension of the qualification of the Obligations for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose;

(n) The audited financial statements of the Issuer contained in the Official Statement fairly present the financial position and results of operations and changes in fund balances of the Issuer as of the dates and for the periods therein set forth; the Issuer has no reason to believe that such financial statements have not been prepared in accordance with generally accepted accounting principles consistently applied; since June 30th of the last fiscal year presented in the audited financial statements of the Issuer included in the Official Statement, the Issuer has not incurred any material liabilities, direct or contingent, nor has there been any material adverse change in the financial position, results of operations or condition, financial or otherwise, of the Issuer that is not described in the Official Statement, whether or not arising from transactions in the ordinary course of business and prior to the Closing, there will be no adverse change of a material nature in such financial position, results of operations or condition, financial or otherwise, of the Issuer;

(o) The Issuer is not a party to any contract or agreement or subject to any restriction, the performance of or compliance with which may have a material adverse effect on the financial condition, operations or prospects of the Issuer or ability of the Issuer to comply with all the requirements set forth in the Official Statement, the Resolution, the Issuer Documents or the Obligations;

(p) Prior to the Closing, the Issuer will not offer or issue any bonds, notes or other obligations for borrowed money or incur any material liabilities, direct or contingent, payable from or secured by any of the revenues or assets which will secure the Obligations without the prior approval of the Underwriter;

(q) The representations of the Issuer set forth herein and in the Issuer Documents are, as of the date hereof, true and correct, and between the date hereof and the date of the Closing, the Issuer shall not take any action that will cause the representations and warranties made herein to be untrue as of the date of the Closing; and

(r) The officers and officials of the Issuer executing the Official Statement, the Issuer Documents and the Obligations and the officers and officials of the Issuer listed on the certificate of the Issuer to be delivered at the Closing have been or will have been duly appointed and are or will be qualified to serve as such officers and officials of the Issuer, and any certificate, signed by any official of the Issuer authorized to do so in connection with the transactions contemplated by this Obligation Purchase Contract shall be deemed a representation and warranty by the Issuer to the Underwriter as to the statements made therein.

## 5. Closing.

(a) At 8:00 a.m. Mountain Standard Time, on \_\_\_\_\_, 2014, or at such other time and date as shall have been mutually agreed upon by the Issuer and the Underwriter (the "Closing"), the Issuer shall, subject to the terms and conditions hereof, cause the Trustee to provide for the execution and delivery of the Obligations to or on behalf of the Underwriter, duly executed, together with the other documents hereinafter mentioned, and the Underwriter shall, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the Obligations as set forth in Section 1 of this Obligation Purchase Contract by a certified or bank cashier's check or checks or wire transfer payable in immediately available funds to the Trustee. Payment for the Obligations as aforesaid shall be made at the offices of Special Counsel or such other place as shall have been mutually agreed upon by the Issuer and the Underwriter.

(b) Delivery of the Obligations shall be made through The Depository Trust Company, New York, New York, including, if provided for by the Underwriter, a "Fast Automated Securities Transfer." The Obligations shall be delivered in definitive fully registered form, bearing CUSIP numbers without coupons, all as provided in the Trust Agreement, and shall be made available to the Underwriter at least one business day before the Closing for purposes of inspection.

6. Closing Conditions. The Underwriter has entered into this Obligation Purchase Contract in reliance upon the representations, warranties, covenants and agreements of the Issuer contained herein and in reliance upon the representations, warranties, covenants and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the obligations of the Underwriter under this Obligation Purchase Contract to purchase, to accept delivery of and to pay for the Obligations shall be conditioned upon the performance by the Issuer of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing and shall also be subject to the following additional conditions, including the delivery by the Issuer of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Underwriter:

(a) The representations and warranties of the Issuer and the Trustee contained herein and in the Issuer Documents shall be true, complete and correct on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing;

(b) The Issuer and the Trustee shall have performed and complied with all covenants, agreements and conditions required by the Issuer Documents to be performed or complied with by it prior to or at the Closing;

(c) At the date of the Closing, (i) the Issuer Documents and the Obligations shall be in full force and effect in the form heretofore approved by the Underwriter and shall not have been amended or modified; (ii) the Official Statement shall not have been amended or supplemented, except in any such case as may have been agreed to by the Underwriter and (iii) all actions of the Issuer required to be taken by the Issuer shall be performed in order for Special Counsel and Gust Rosenfeld, P.L.C., as counsel to the Underwriter (“Counsel to the Underwriter”) to deliver their respective opinions referred to hereafter;

(d) At the date of the Closing, all official action of the Issuer relating to the Obligations and the Issuer Documents shall be in full force and effect and shall not have been amended, modified or supplemented;

(e) At or prior to the Closing, the Issuer Documents shall have been duly executed and delivered by the Issuer and the Trustee shall have duly executed and delivered the Obligations;

(f) At the date of the Closing, there shall not have occurred any change or any development involving a prospective change in the condition, financial or otherwise, or in the revenues or operations of the Issuer, from that set forth in the Official Statement that, in the judgment of the Underwriter, is material and adverse and that makes it, in the judgment of the Underwriter, impractical to market the Obligations on the terms and in the manner contemplated in the Official Statement;

(g) At the date of the Closing, no “event of default” shall have occurred or be existing under the Issuer Documents nor shall any event have occurred which,

with the passage of time or the giving of notice, or both, shall constitute an event of default under the Issuer Documents;

(h) The Issuer shall not have failed to pay principal or interest when due on any of its outstanding obligations for borrowed money;

(i) All steps to be taken, all instruments and other documents to be executed and all other legal matters in connection with the transactions contemplated by this Obligation Purchase Contract shall be reasonably satisfactory in legal form and effect to the Underwriter;

(j) At or prior to the Closing, the Underwriter shall have received two copies of the transcript of all proceedings of the Issuer relating to the execution and delivery of the Obligations, certified, as necessary, by appropriate officials of the Issuer, including, but not limited to, the following opinions, certificates and other documents:

(1) An unqualified approving opinion of Greenberg Traurig, LLP as special counsel ("Special Counsel") as to the Obligations, dated the date of the Closing, addressed to the Issuer and substantially in the form included in the Official Statement;

(2) The supplemental opinion of Special Counsel, dated the date of the Closing, addressed to the Underwriter and substantially in the form attached hereto as Exhibit A;

(3) An opinion of the Issuer's City Attorney that the Issuer (i) is duly incorporated and validly existing as a municipal corporation and political subdivision under the Constitution and laws of the State of Arizona, (ii) has duly adopted the Resolution and (iii) the adoption and approval of the Resolution and compliance with the respective provisions thereof under the circumstances contemplated thereby does not and will not in any material respect conflict with or constitute on the part of the Issuer a breach of or default under any agreement or other instrument to which the Issuer is a party, ordinance, administrative regulation, court order or consent decree to which the Issuer is subject;

(4) An opinion of the Issuer's City Attorney that, based on an investigation of the records of the Superior Court of Yuma County and the United States District Court, District of Arizona, Phoenix Division, there is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or body pending or, to his knowledge (upon due inquiry), threatened (i) in any way affecting the powers of the Issuer, the existence of the Issuer or the title to office of any of the officials of the Issuer, (ii) seeking to restrain or enjoin the sale or execution and delivery of the Obligations, or the levy, collection and pledge of the Excise Taxes and State Shared Revenues to be levied to pay the principal of and interest on the Obligations, (iii) in any way contesting or affecting the validity or enforceability of the Obligations, the Issuer Documents or any agreements entered into in connection therewith, (iv) contesting in any way the completeness or accuracy of the Official Statement, (v) which may adversely affect the Issuer or its properties or (vi) questioning the exclusion from gross income of interest on the Obligations for federal income tax purposes or for State income tax purposes; nor, to the best knowledge of such counsel, is there any reasonable basis therefor;

(5) An opinion of the Counsel to the Underwriter dated the date of the Closing, addressed to the Underwriter and substantially in the form attached hereto as Exhibit B;

(6) A certificate, dated the date of Closing and signed by the Mayor, the City Clerk and the Finance Director of the Issuer, to the effect that to the best of their knowledge (i) the representations and warranties of the Issuer contained herein are true and correct in all material respects on and as of the date of the Closing with the same effects if made on the date of the Closing; (ii) there is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or body pending or threatened in any way affecting the existence of the Issuer or the titles of its officials to their respective positions, or seeking to restrain or to enjoin the sale or delivery of the Obligations, or the levy and collection of the Excise Taxes imposed and levied or to be imposed and levied to pay all the principal of and interest on the Obligations, or the imposition thereof, or in any way contesting or affecting the validity or enforceability of the Obligations or the Issuer Documents, or contesting in any way the completeness or accuracy of the Official Statement or the exclusion from gross income of interest on the Obligations for federal income tax purposes or State income tax purposes, or contesting the powers of the Issuer or its authority with respect to the Obligations or the Issuer Documents and (iii) the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing;

(7) A certificate, dated the date of the Closing and signed by the Finance Director and City Attorney of the Issuer, to the effect that to the best of his knowledge (i) the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (ii) the financial statements of the Issuer contained in the Official Statement fairly present the financial position and results of operations and changes in fund balances of the Issuer as of the dates and for the periods therein set forth and the Issuer has no reason to believe that such financial statements have not been prepared in accordance with generally accepted accounting principles consistently applied; (iii) since June 30 of the last fiscal year presented in the audited financial statements of the Issuer included in the Official Statement, the Issuer has not incurred any material liabilities, direct or contingent, nor has there been any material adverse change in the result of operations or financial condition of the Issuer that is not described in the Official Statement, whether or not arising from transactions in the ordinary course of business, nor are there any deficits in any fund of the Issuer except as disclosed in the Official Statement; (iv) no event affecting the Issuer has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purpose of which it is to be used or which it is necessary to disclose therein with respect to the Issuer in order to make the statement or information therein in the light of the circumstances under which they were made or set forth not misleading in any material respect; (v) the Issuer is in compliance with the financial requirements contained in the Leaseback Agreement as defined in the Purchase Agreement, and other than contained in Section 1 of the Purchase Agreement, there are no incurrence test coverage requirements applicable to the Obligations; and (vi) the Issuer is not otherwise in default under the Leaseback Agreement;

- (8) A specimen of the Obligations;
- (9) A certified copy of the Resolution;
- (10) A counterpart original of the Official Statement manually executed on behalf of the Issuer by the Mayor of the Issuer;
- (11) A non-arbitrage certificate with respect to the Obligations of the Issuer in form and substance satisfactory to Special Counsel;
- (12) The filing copy of the Information Return Form 8038-G (IRS) for the Obligations and of the Report Relating to Bond and Security Issuance (Arizona Department of Revenue) for the Obligations;
- (13) An executed copy of each of the Issuer Documents;
- (14) Certificates and receipts, dated the date of Closing, signed by an authorized representative of the Trustee and the Escrow Trustee and in form and substance satisfactory to Special Counsel and the Underwriter;
- (15) Letter from Standard & Poor's Financial Services, LLC, confirming that the Obligations have been rated “\_\_,” which rating shall be in effect on the date of Closing;
- (16) A certificate or certificates, dated the date of the Closing, signed by an authorized representative of the Trustee and in form and substance satisfactory to Special Counsel and the Underwriter, in which such official to the best of his/her knowledge after due investigation states that (i) the representations and warranties of the Trustee contained in the Trust Agreement and the Purchase Agreement are true and correct in all material respects as of the date of the Closing, the Trustee has duly executed and delivered the Trust Agreement and the Purchase Agreement and the Trustee has complied with all agreements and satisfied all conditions on its part to be performed or satisfied under the Trust Agreement and the Purchase Agreement at or prior to the Closing and (ii) no litigation is pending or threatened against the Trustee before any judicial, quasi-judicial or administrative forum (A) to restrain or enjoin the performance by the Trustee of its obligations and duties under the Trust Agreement and the Purchase Agreement, (B) in any way contesting or affecting any authority for, or the validity of, the Obligations or the applications of the proceeds of the Obligations or (C) in any way contesting the existence or corporate trust powers of the Trustee, together with evidence of the authority of the Trustee to execute and deliver, as applicable, the Trust Agreement, the Purchase Agreement and the Obligations and an incumbency certificate;
- (17) An executed copy of the First Amendment to Loan Repayment Agreement, dated as of \_\_\_\_\_, 2014, with the Greater Arizona Development Authority (“GADA”) regarding incurring Parity Lien Obligations, amending the Loan Repayment Agreement with GADA dated February 1, 2009;

(18) The verification report of Grant Thornton LLP (the “Verification Agent”), dated as of Closing, described under the heading “VERIFICATION OF MATHEMATICAL COMPUTATIONS” in the Official Statement, which shall be sufficient, in the judgment of Special Counsel, with respect to the prepayment of the Bonds Being Refunded; and

(19) Such additional opinions, letters, certificates, instruments and other comments as the Underwriter or Counsel to the Underwriter may reasonably deem necessary to satisfy conditions to the execution and delivery of the Obligations and to evidence the truth and accuracy as of the Closing, or prior to such time, of the representations, warranties and covenants of the Issuer and the due performance or satisfaction by the Issuer of all agreements then to be performed and all conditions then to be satisfied by the Issuer.

(All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Obligation Purchase Contract shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Underwriter.)

If the Issuer shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Obligations contained in this Obligation Purchase Contract, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Obligations shall be terminated for any reason permitted by this Obligation Purchase Contract, this Obligation Purchase Contract shall terminate and neither the Underwriter nor the Issuer shall be under any further obligation hereunder, except that the respective obligations of the Issuer and the Underwriter set forth in Section 8(c) hereof shall continue in full force and effect.

7. Termination. The Underwriter shall have the right to cancel its obligation to purchase the Obligations if, between the date of this Obligation Purchase Contract and the Closing, the market price or marketability of the Obligations shall be materially adversely affected, in the sole judgment of the Underwriter, by the occurrence of any of the following:

(a) Legislation shall be enacted by or introduced in the Congress of the United States or recommended to the Congress for passage by the President of the United States, or the Treasury Department of the United States or the Internal Revenue Service or any member of the Congress or the State legislature or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States or of the State or the United States Tax Court shall be rendered, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed, the effect of any or all of which would be, directly or indirectly, to affect the tax status of the Issuer, its securities (including the Obligations) or the interest thereon, or any tax exemption granted or authorized by the Internal Revenue Code of 1986, as amended, or the statutes of the State of Arizona;

(b) Legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree, or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Obligations, including any or all underlying arrangements, are not exempt from registration under or other requirements of the 1933 Act, or that the Trust Agreement is not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, or that the issuance, offering, or sale of obligations of the general character of the Obligations, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise, is or would be in violation of the federal securities law as amended and then in effect;

(c) Any state “blue sky” or securities commission or other governmental agency or body shall have withheld registration, exemption or clearance of the offering of the Obligations as described herein, or issued a stop order or similar ruling relating thereto;

(d) A general suspension of trading in securities on the New York Stock Exchange or the American Stock Exchange, the establishment of minimum prices on either such exchange, the establishment of material restrictions (not in force as of the date hereof) upon trading securities generally by any governmental authority or any national securities exchange, or a general banking moratorium declared by federal, State of New York, or State officials authorized to do so;

(e) The New York Stock Exchange or other national securities exchange or any governmental authority, shall impose, as to the Obligations or as to obligations of the general character of the Obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriter;

(f) Any amendment to the federal or State Constitution or action by any federal or State court, legislative body, regulatory body, or other authority materially adversely affecting the tax status of the Issuer, its property, income securities (or interest thereon), or the validity or enforceability of the Issuer’s pledge of any portion of the Excise Taxes or State Shared Revenues;

(g) Any event occurring, or information becoming known which, in the judgment of the Underwriter, makes untrue in any material respect any statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(h) There shall have occurred since the date of this Obligation Purchase Contract any materially adverse change in the affairs or financial condition of the Issuer;

(i) The United States shall have become engaged in hostilities which have resulted in a declaration of war or a national emergency or there shall have occurred any other outbreak or escalation of hostilities or a national or international calamity or crisis, financial or otherwise;

(j) Any fact or event shall exist or have existed that, in the Underwriter's judgment, requires or has required an amendment of or supplement to the Official Statement;

(k) There shall have occurred any suspension or downgrading or any notice shall have been given of (i) any intended or potential suspension or downgrading or (ii) any review or possible change that does not indicate a possible upgrade, in the rating accorded any of the Issuer's obligations (including the rating to be accorded the Obligations);

(l) United States Treasury Certificate of Indebtedness, Notes or Bonds-State and Local Government Series or acceptable open market securities shall be unavailable for purchase and/or delivery in the amounts, maturities and prices or yields required pursuant to the Escrow Trust Agreement; or

(m) The purchase of and payment for the Obligations by the Underwriter, or the resale of the Obligations by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission.

## 8. Expenses.

(a) The Underwriter shall be under no obligation to pay, and the Issuer shall pay, any expenses incident to the performance of the obligations of the Issuer hereunder, including, but not limited to (i) the cost of preparation and printing of the Obligations, the Preliminary Official Statement, the Official Statement, the Issuer Documents in reasonable quantities and all other documents (other than as set forth in the next succeeding paragraph) prepared in connection with the transactions contemplated hereby, (ii) the fees and disbursements of Special Counsel, the Trustee, the Escrow Trustee, the Verification Agent and Counsel to the Underwriter, (iii) the fees and disbursements of any other engineers, accountants, and other experts, consultants or advisers retained by the Issuer, (iv) the fees for bond ratings and of DTC, and (v) reasonable miscellaneous, normally occurring, "out-of-pocket" expenses incurred by the Underwriter in connection with the sale and execution and delivery of the Obligations.

(b) The Underwriter shall pay (i) all advertising expenses in connection with the public offering of the Obligations and (ii) all other expenses incurred by it in connection with the public offering of the Obligations.

(c) If this Obligation Purchase Contract shall be terminated by the Underwriter because of any failure or refusal on the part of the Issuer to comply with the terms or to fulfill any of the conditions of this Obligation Purchase Contract or if for any reason the Issuer shall be unable to perform its obligations under this Obligation Purchase Contract, the Issuer shall reimburse the Underwriter for all “out-of-pocket” expenses (including the fees and disbursements of Counsel to the Underwriter) reasonably incurred by the Underwriter in connection with this Obligation Purchase Contract or the offering contemplated hereunder.

9. Notices. Any notice or other communication to be given to the Issuer under this Obligation Purchase Contract may be given by delivering the same in writing at the address set forth on the first page of this Obligation Purchase Contract to the attention of the Finance Director, and any notice or other communication to be given to the Underwriter under this Obligation Purchase Contract may be given by delivering the same in writing to Stifel, Nicolaus & Company, Incorporated, Suite 280, 2555 East Camelback Road, Phoenix, Arizona 85016, Attention: Mark Reader, Managing Director.

10. Parties in Interest. This Obligation Purchase Contract as heretofore specified shall constitute the entire agreement between us and is made solely for the benefit of the Issuer and the Underwriter (including successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. This Obligation Purchase Contract may not be assigned by the Issuer. All of the representations, warranties and agreements of the Issuer contained in this Obligation Purchase Contract shall remain operative and in full force and effect, regardless of (i) any investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Obligations pursuant to this Obligation Purchase Contract and (iii) any termination of this Obligation Purchase Contract.

11. Effectiveness. This Obligation Purchase Contract shall become effective upon the acceptance hereof by the Issuer and shall be valid and enforceable at the time of such acceptance.

12. Choice of Law. This Obligation Purchase Contract shall be governed by and construed in accordance with the law of the State of Arizona.

13. Severability. If any provision of this Obligation Purchase Contract shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions because it conflicts with any provisions of any Constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions of this Obligation Purchase Contract invalid, inoperative or unenforceable to any extent whatever.

14. Business Day. For purposes of this Obligation Purchase Contract, “business day” means any day on which the New York Stock Exchange is open for trading.

15. Section Headings. Section headings have been inserted in this Obligation Purchase Contract as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Obligation Purchase Contract and will not be used in the interpretation of any provisions of this Obligation Purchase Contract.

16. Counterparts. This Obligation Purchase Contract may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document.

17. Notice Concerning Cancellation of Contracts. As required by the provisions of Section 38-511, Arizona Revised Statutes, as amended, notice is hereby given that the State, its political subdivisions (including the Issuer) or any department or agency of either may, within three (3) years after its execution, cancel any contract, without penalty or further obligation, made by the State, its political subdivisions or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any of the departments or agencies of either is, 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 of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from the Governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time. The State, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract. This Section is not intended to expand or enlarge the rights of the Issuer hereunder except as required by such Section. Each of the parties hereto hereby certifies that it is not presently aware of any violation of such Section which would adversely affect the enforceability of this Obligation Purchase Contract and covenants that it shall take no action which would result in a violation of such Section.

If you agree with the foregoing, please sign the enclosed counterpart of this Obligation Purchase Contract and return it to the Underwriter. This Obligation Purchase Contract shall become a binding agreement between you and the Underwriter when at least the counterpart of this letter shall have been signed by or on behalf of each of the parties hereto.

Very truly yours,

STIFEL, NICOLAUS & COMPANY,  
INCORPORATED, as Underwriter

By \_\_\_\_\_  
Name: B. Mark Reader  
Title: Managing Director

Time of Execution: \_\_\_\_\_ at \_\_\_\_\_ M (MST)

CITY OF SAN LUIS, ARIZONA

By \_\_\_\_\_  
Its \_\_\_\_\_

[SIGNATURE PAGE OF OBLIGATION PURCHASE CONTRACT]

SCHEDULE  
TO  
OBLIGATION PURCHASE CONTRACT

\$ \_\_\_\_\_  
CITY OF SAN LUIS, ARIZONA  
EXCISE TAX REVENUE REFUNDING  
OBLIGATIONS,  
TAX-EXEMPT SERIES 2014A

\$ \_\_\_\_\_  
CITY OF SAN LUIS, ARIZONA  
EXCISE TAX REVENUE REFUNDING  
OBLIGATIONS,  
TAXABLE SERIES 2014B

Dated Date: \_\_\_\_\_, 2014

Obligation Payment Provisions

Tax-Exempt Obligations

<u>MATURITY</u> <u>(JULY 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>	<u>YIELD</u>
	\$		%

*Optional Prepayment.* Principal represented by the Tax-Exempt Obligations payable before or on July 1, 20\_\_, will not be subject to prepayment prior to their stated payment dates. Principal represented by the Tax-Exempt Obligations payable on or after July 1, 20\_\_, may be prepaid prior to maturity, in whole or in part on any date, in any order of payment date and by lot within any payment date, by the City, on or after July 1, 20\_\_, at a prepayment price equal to the principal amount thereof plus accrued interest on such principal to the date fixed for prepayment, but without premium.

*Mandatory Prepayment.* Principal represented by the Tax-Exempt Obligations payable on July 1, 20\_\_ (the "Term Obligations") will be subject to mandatory prepayment and will be prepaid on July 1 of the respective years set forth below and in the principal amounts set forth below, by payment of a prepayment price equal to the principal amount of the Term Obligations then called for prepayment plus the interest accrued to the date fixed for prepayment, but without premium, as follows:

Term Obligation due July 1, 20__	
Prepayment	
<u>Date</u>	<u>Principal</u>
<u>(July 1)</u>	<u>Amount</u>
	\$
	(final payment)

Taxable Obligations

<u>MATURITY</u> <u>(JULY 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>	<u>YIELD</u>
	\$		%

The Taxable Obligations will not be subject to prepayment prior to their stated maturity dates

EXHIBIT A

DRAFT

[LETTERHEAD OF GREENBERG TRAURIG, LLP]

[Closing Date]

[Trustee]

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Re: Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A and Taxable Series 2014B Representing Proportionate Interests of the Owners Thereof in Purchase Price Payments to be Made by City of San Luis, Arizona, to \_\_\_\_\_, as Trustee

We have examined the transcript of proceedings (the "Transcript") relating to the execution and delivery by \_\_\_\_\_ (the "Trustee") of the Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A (the "Tax-Exempt Obligations") and the Pledged Excise Tax Revenue Refunding Obligations, Taxable Series 2014B (together with the Tax-Exempt Obligations, the "Obligations"), pursuant to a First Excise Tax Trust Agreement, dated as of \_\_\_\_\_ 1, 2014 (the "Trust Agreement"), between the Trustee and City of San Luis, Arizona (the "City"). Each of the Obligations is an undivided, participating, proportionate interest in certain payments to be made by the City pursuant to a First Excise Tax Purchase Agreement, dated as of \_\_\_\_\_ 1, 2014 (the "Purchase Agreement"), between the Trustee as seller and the City as buyer to refinance certain projects for the City. In addition, we have examined such other proceedings, proofs, instruments, certificates and other documents as well as such other materials and such matters of law as we have deemed necessary or appropriate for the purposes of the opinions rendered herein below.

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

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

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

2. The obligations of the City pursuant to the Purchase Agreement with respect to payment of principal and interest with respect to the Obligations constitute a valid and binding special obligation of the City payable solely from, and secured solely by, the revenues and other moneys pledged and assigned pursuant to the Trust Agreement to secure such payments. Those revenues and other moneys include payments required to be made by the City pursuant to the Purchase Agreement, and the obligation of the City to make those payments is secured by a limited pledge of revenues from the "Excise Taxes" and the "State Shared Revenues" as described in, and provided by, the Purchase Agreement. Such payments are not secured by an obligation or pledge of any moneys raised by taxation other than the specified taxes; the Obligations do not represent or constitute a debt or pledge of the general credit of the City and the Purchase Agreement, including the obligation of the City to make the payments required thereunder, does not represent or constitute a debt or pledge of the general credit of the City.

3. (a) Subject to the assumption stated in the last sentence of this paragraph, the portion of each payment made by the City pursuant to the Purchase Agreement, denominated and comprising interest with respect to the Tax-Exempt Obligations and received by the beneficial owners of the Tax-Exempt Obligations (the "Interest Portion"), is excludable from the gross income of the beneficial owners thereof for federal income tax purposes. Furthermore, the Interest Portion is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however the Interest Portion is taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax imposed on certain corporations. (We express no opinion regarding other federal tax consequences resulting from the receipt or accrual of the interest on, or ownership or disposition of, the Obligations.) The Internal Revenue Code of 1986, as amended (the "Code"), includes requirements which the City must continue to meet after the execution and delivery of the Tax-Exempt Obligations in order that the Interest Portion not be included in gross income for federal income tax purposes. The failure of the City to meet these requirements may cause the Interest Portion to be included in gross income for federal income tax purposes retroactive to their date of issuance. The City has covenanted in the Purchase Agreement to take the actions required by the Code in order to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion. In rendering the opinion expressed in this paragraph, we have assumed continuing compliance with the tax covenants referred to hereinabove that must be met after the execution and delivery of the Tax-Exempt Obligations in order that the Interest Portion not be included in gross income for federal tax purposes.

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

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

Respectfully submitted,

EXHIBIT B

[Letterhead of Gust Rosenfeld, P.L.C.]

[Closing Date]

Stifel, Nicolaus & Company, Incorporated  
Phoenix, Arizona

Re: City of San Luis, Arizona, Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A and Pledged Excise Tax Revenue Refunding Obligations, Taxable Series 2014B

This opinion is rendered pursuant to the Obligation Purchase Contract, dated \_\_\_\_\_, 2014 (the "Obligation Purchase Contract"), between you and the City of San Luis, Arizona (the "City"), relating to your purchase of the City of San Luis, Arizona \$ \_\_\_\_\_ Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2014A and \$ \_\_\_\_\_ Pledged Excise Tax Revenue Refunding Obligations, Taxable Series 2014B dated even date herewith (collectively, the "Obligations"), and as counsel to you solely for your use in connection with your purchase of the Obligations. For such purpose, we have examined the Official Statement, dated \_\_\_\_\_, 2014 (the "Official Statement"), relating to the Obligations as well as certain other documents, including certificates, opinions and records, and made certain investigations concerning applicable laws as we considered to be appropriate for the purpose of rendering this opinion. For such purpose, we have assumed the authenticity of all original documents and the conformity to original documents of all copies of documents, the accuracy and completeness of all certificates and records as to factual matters, the authenticity of all signatures on documents and the legal capacity of signers to execute the documents. In addition to reviewing the documents referenced above, we have also participated in telephone conferences with your representatives and representatives of the City and Special Counsel concerning the contents of the Official Statement and related matters. We have also relied upon certifications of the City, the opinion of the City Attorney, and the opinions of Special Counsel delivered on this date in connection with the execution and delivery of the Obligations.

While we have not undertaken to verify independently, and are not expressing any view upon, and do not assume responsibility for, the accuracy, completeness or fairness of the contents of the Official Statement, we are not aware at present of any information that came to our attention in the course of our performance of the services referred to herein that leads us to believe that the Official Statement, at its date or as of this date, contained or contains, respectively, any untrue statement of a material fact or omitted or omits, respectively, to state any material fact necessary in order to make the statements made in the Official Statement, in

light of the circumstances under which they were made, not misleading. We express no view as to (a) any information included in Appendix C to the Official Statement or under the heading "LITIGATION" in the Official Statement, (b) any information relating to The Depository Trust Company, New York, New York, or the status of the interest to be paid on the Obligations for federal or State income tax purposes or (c) any financial, technical or statistical data included or incorporated by reference in the Official Statement.

This opinion is furnished solely for your benefit and may not, without our prior express written consent, be relied upon by any other person or entity.

Respectfully submitted,