
SECOND EXCISE TAX TRUST AGREEMENT

by and between

U.S. BANK NATIONAL ASSOCIATION[???],
as Trustee

and

THE CITY OF SAN LUIS, ARIZONA,
as Purchaser

Dated as of _____ 1, 2017

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EXHIBIT **FORM OF OBLIGATIONS**

* * *

SECOND EXCISE TAX TRUST AGREEMENT

THIS SECOND EXCISE TAX TRUST AGREEMENT, made and entered into as of the 1st day of _____, 2017 (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 U.S. BANK NATIONAL ASSOCIATION, a national banking association authorized to exercise trust powers in the State of Arizona, as trustee, and any successor to its duties hereunder (the "Trustee"), and;

WITNESSETH:

WHEREAS, the Mayor and Council of the City have determined that it will be beneficial to the citizens of the City for the City to refinance the costs of the Prior Project (as such term and all other terms not otherwise defined hereinabove are hereinafter defined) which were financed with proceeds of the Loan Repayment Agreement; and

WHEREAS, for such purpose, the Mayor and the Council of the City requested that the Trustee sell and execute and deliver the Obligations, and the Trustee has, as described in this Trust Agreement, caused amounts to be paid to the Escrow Trustee and deposited to the Costs of Issuance Fund as provided herein; and

WHEREAS, the City and the Trustee will enter into this Trust Agreement to facilitate the administration of the refinancing of the Prior Project, and the Trustee has full legal authority and is duly empowered to enter into this Trust Agreement and has taken all actions necessary to authorize the execution and delivery hereof;

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, 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) bring actions and proceedings thereunder or for the enforcement of such rights, and (iii) 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 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.

“*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 execution and delivery 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 payment 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 execution and delivery of the 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 of the City to act on behalf of the City with respect to this Trust Agreement.

“*Closing Date*” means _____, 2017.

“*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.

“*Defaulted Interest*” has the meaning provided in Section 2.11(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 authority.

“*Designated Office*” means the office designated as such by the Trustee in writing to the City. The initial Designated Office shall be the Corporate Trust Office.

“*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, 2017, by and between the Escrow Trustee and the City.

“*Escrow Trustee*” means U.S. Bank National Association[???], as escrow trustee pursuant to the Escrow Trust Agreement.

“*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.

“*First Purchase Agreement*” means the First Excise Tax Purchase Agreement, dated as of November 1, 2014, by and between the City and U.S. Bank National Association, as seller.

“*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.

[“*Insurer*” means Build America Mutual Assurance Company, or any successor thereto.

“*Insurer Default*” means: (A) the Insurer has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) the Insurer shall (1) voluntarily commence any proceeding or file any petition seeking relief under the United

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

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

[“*Late Payment Rate*” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in New York, New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3% and (ii) the then applicable highest rate of interest on the Obligations and (b) the maximum rate permissible under the applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A. ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as the Insurer, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to the Insurer shall be computed on the basis of the actual number of days elapsed in a year of 360 days.]

“*Loan Repayment Agreement*” means the Loan Repayment Agreement, dated as of February 1, 2009, as amended by the First Amendment to Loan Repayment Agreement, dated as of November 1, 2014, by and between 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.

“*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.

“*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).

“*Obligations*” means, collectively, the Tax-Exempt Obligations and the Taxable Obligations.

“*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 any additional obligations which may hereafter be issued or incurred by the City (or any financing conduit acting on behalf of the City) having a lien upon and payable from the revenues from the Excise Taxes and the State Shared Revenues on a parity with, and in compliance with the terms of, the First Purchase Agreement and the Purchase Agreement.

“*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.

[“*Policy*” means, collectively, the Municipal Bond Insurance Policy issued by the Insurer that guarantees the scheduled payment of principal of and interest on the Tax-Exempt Obligations when due and the Municipal Bond Insurance Policy issued by the Insurer that guarantees the scheduled payment of principal of and interest on the Taxable Obligations when due.]

“*Prior Project*” means the acquisition and renovation of a building and related site and reimbursement of cost overruns associated with certain capital improvements.

“*Purchase Agreement*” means the Second Excise Tax Purchase Agreement, dated as of _____ 1, 2017, 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.

“*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 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.

“*Tax Certificate*” means the Certificate Relating To Federal Tax Matters executed and delivered by the City on the Closing Date.

“*Tax-Exempt Obligations*” means the City of San Luis, Arizona Pledged Excise Tax Revenue Refunding Obligations, Tax-Exempt Series 2017A.

“*Taxable Obligations*” means the City of San Luis, Arizona Pledged Excise Tax Revenue Refunding Obligations, Taxable Series 2017B.

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>
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 _____ 1, 20__, 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:

- (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 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, the 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 Pledged 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 the payment of 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. The Trustee has no duty or obligation to confirm that such disbursements constitute Delivery Costs.

(c) On the earlier of _____ 1, 20__, 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

Principal Amount Prepaid

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

Principal Amount Prepaid

Whenever Tax-Exempt Obligations payable on July 1, 20__, and 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__, and 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__, and 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

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 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 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 Pledged 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. 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 5.4. 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.

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 refinanced 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 its own affairs.

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 shall 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 (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 the affect Obligation for such 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. The Trustee has no duty or obligation to determine the sufficiency of any such filings.

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 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 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 the Obligations may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owners of the Obligations.

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) The Owners shall not 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 (a "Verification Report"), 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.

(b) Any funds held by the Trustee, at the time of one of the events described in paragraph (a) of this Section, which are not required for the payment to be made to the Owners or for the payment of any other amounts due and payable by the City hereunder or under the Purchase Agreement, shall be paid over to the City.

(c) Any Obligation or portion thereof in Authorized Denominations may be paid and discharged as provided in this Section; provided however, that if principal represented by such Obligation is to be optionally prepaid, notice of such prepayment shall have

been given in accordance with the provisions hereof or the City shall have submitted to the Trustee instructions to be irrevocable as to the date upon which such Obligation or portion thereof is to be prepaid and as to the giving of notice of such prepayment; and provided further, that if any of such Obligation or portion thereof will not be payable within sixty (60) days of the deposit referred to in subsections (a)(2) or (3) of this Section, the Trustee shall give notice of such deposit by first class mail to the Owners.

(d) No Tax-Exempt Obligation may be provided for as described in this Section if, as a result thereof, or of any other action in connection with which the provisions for payment of such Tax-Exempt Obligation is made, the interest payable on any Tax-Exempt Obligation is thereby made includable in gross income for federal income tax purposes. The Trustee, the Depository Trustee, and the City may rely upon a Special Counsel's Opinion to the effect that the provisions of this Subsection will not be breached by so providing for the payment of any Tax-Exempt Obligations.

Section 12.2. Notices. All written notices to be given under this Trust Agreement shall be given by overnight delivery or courier or by mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective upon deposit in the United States of America mail, postage prepaid or, in the case of personal delivery, upon delivery to the address set forth below:

If to the City: City of San Luis, Arizona
 1090 East Union Street
 P.O. Box 1170
 San Luis, Arizona 85349
 Attention: Finance Director

If to the Trustee: U.S. Bank National Association
 101 North First Avenue, Suite 1600
 Phoenix, Arizona 85003
 Attention: Global Corporate Trust Services

Section 12.3. Incorporation of State Statutes.

(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 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 41-4401, Arizona Revised Statutes, the Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the “e-verify” requirements under Section 23-214(A), Arizona Revised Statutes. The breach by the Trustee of the foregoing shall be deemed a material breach of this 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.

(c) Pursuant to Section 35-393 et seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term “boycott” has the meaning set forth in Section 35-393, Arizona Revised Statutes. If the City determines that the Trustee’s certification above is false or that it has breached such agreement, the City may impose remedies as provided by law.

Section 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 the 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.

ARTICLE XIII

[PROVISIONS RELATING TO POLICY AND INSURER

Section 13.1. Applicability of this Article. Notwithstanding anything herein or in the Purchase Agreement to the contrary, the provisions of this Article shall be applicable and shall supersede any conflicting provisions herein or in the Purchase Agreement so long as the Policy is in effect and, except with respect to amounts already due to the Insurer thereunder against which the following shall not be a defense and with regard to which the Insurer will be treated like any other Owner of the Obligations, there is no Insurer Default.

Section 13.2. Notice and Other Information to be given to the Insurer. The City will provide the Insurer with all notices and other information it is obligated to provide (i) under the Continuing Disclosure Undertaking and (ii) to the Owners of the Obligations or the Trustee under the Purchase Agreement or this Trust Agreement.

The notice address of the Insurer is: Build America Mutual Assurance Company, 1 World Financial Center, 27th Floor, 200 Liberty Street, New York, NY 10281, Attention: Surveillance, Re: Policy Nos. 2017B0613 and 2017B0614, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: notices@buildamerica.com. In each case

in which notice or other communication refers to an Event of Default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the Insurer's general counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

Section 13.3. Defeasance.

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

(b) At least three (3) Business Days prior to any defeasance with respect to the Obligations, the City shall deliver to the Insurer draft copies of an escrow agreement, an opinion of Special Counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Obligations and a Verification Report regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to the Insurer and shall be in form and substance satisfactory to the Insurer. In addition, the escrow agreement shall provide that:

(1) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of Special Counsel that such substitution will not adversely affect the exclusion from gross income of the Owners of the Tax-Exempt Obligations of the interest on the Tax-Exempt Obligations for federal income tax purposes and the prior written consent of the Insurer, which consent will not be unreasonably withheld.

(2) The City will not exercise any prior optional prepayment of the Tax-Exempt Obligations secured by the escrow agreement or any other prepayment other than mandatory prepayment unless (i) the right to make any such prepayment has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding obligations, and (ii) as a condition to any such prepayment there shall be provided to the Insurer a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such prepayment.

(3) The City shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of the Insurer.

Section 13.4. Trustee.

(a) The Insurer shall receive prior written notice of any name change of the Trustee or the resignation or removal of the Trustee. Any Trustee must be (1) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (2) a state-chartered commercial bank that is a member of the

Federal Reserve System and has at least \$1 billion of assets, or (3) otherwise approved by the Insurer in writing.

(b) No removal, resignation or termination of the Trustee shall take effect until a successor, acceptable to the Insurer, shall be qualified and appointed.

Section 13.5. Amendments, Supplements and Consents. The Insurer's prior written consent is required for all amendments and supplements to the Purchase Agreement or this Trust Agreement, with the exceptions noted below. The City shall send copies of any such amendments or supplements to the Insurer and the rating agencies which have assigned a rating to the Obligations.

(a) Any amendments or supplements to the Purchase Agreement and this Trust Agreement shall require the prior written consent of the Insurer with the exception of amendments or supplements:

(1) To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the Purchase Agreement or this Trust Agreement or in any supplement thereto, or

(2) To grant or confer upon the Owners of the Obligations any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Owners of the Obligations, or

(3) To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Purchase Agreement or this Trust Agreement other conditions, limitations and restrictions thereafter to be observed, or

(4) To add to the covenants and agreements of the City in the Purchase Agreement and this Trust Agreement other covenants and agreements thereafter to be observed by the City or to surrender any right or power therein reserved to or conferred upon the City.

(b) Any amendment, supplement, modification to, or waiver of, the Purchase Agreement or this Trust Agreement that requires the consent of Owners of the Obligations or materially adversely affects the rights or interests of the Insurer shall be subject to the prior written consent of the Insurer.

(c) Any reorganization or liquidation plan with respect to the City must be acceptable to the Insurer. In the event of any reorganization or liquidation of the City, the Insurer shall have the right to vote on behalf of all Owners of the Obligations absent a continuing failure by the Insurer to make a payment under the Policy.

(d) Upon the occurrence and continuance of an Event of Default, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Owners of the Obligations or the Trustee for the benefit of the Owners of the Obligations

under the Purchase Agreement or this Trust Agreement. No Event of Default may be waived without the Insurer's written consent.

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

Section 13.6. The Insurer As Third Party Beneficiary. To the extent that this Trust Agreement or the Purchase Agreement confer upon or give or grant to the Insurer any right, remedy or claim under or by reason of this Trust Agreement or the Purchase Agreement, the Insurer shall be recognized explicitly as being a third party beneficiary hereunder and thereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder and thereunder.

Section 13.7. Payment Procedure Under the Policy.

(a) In the event that principal of and/or interest due on the Obligations shall be paid by the Insurer pursuant to the Policy, the Obligations shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the City to the Owners shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Owners including, without limitation, any rights that such Owners may have in respect of securities law violations arising from the offer and sale of the Obligations.

(b) In the event that on the second Business Day prior to any payment date on the Obligations, the Trustee has not received sufficient moneys to pay all principal of and interest on the Obligations due on such payment date, the Trustee shall immediately notify the Insurer or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Trustee shall so notify the Insurer or its designee.

(c) In addition, if the Trustee has notice that any Owner of the Obligations has been required to disgorge payments of principal of or interest on the Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Owner within the meaning of any applicable bankruptcy law, then the Trustee shall notify the Insurer or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of the Insurer.

(d) The Trustee shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for Owners of the Obligations as follows:

(1) If there is a deficiency in amounts required to pay interest and/or principal on the Obligations, the Trustee shall (i) execute and deliver to the Insurer, in form satisfactory to the Insurer, an instrument appointing the Insurer as agent

and attorney-in-fact for such Owners of the Obligations in any legal proceeding related to the payment and assignment to the Insurer of the claims for interest on the Obligations, (ii) receive as designee of the respective Owners (and not as paying agent) in accordance with the tenor of the Policy payment from the Insurer with respect to the claims for interest so assigned, and (iii) disburse the same to such respective Owners; and

(2) If there is a deficiency in amounts required to pay principal of the Obligations, the Trustee shall (i) execute and deliver to the Insurer, in form satisfactory to the Insurer, an instrument appointing the Insurer as agent and attorney-in-fact for such Owner of the Obligations in any legal proceeding related to the payment of such principal and an assignment to the Insurer of the Obligations surrendered to the Insurer, (ii) receive as designee of the respective Owners (and not as paying agent) in accordance with the tenor of the Policy payment therefore from the Insurer, and (iii) disburse the same to such Owners.

The Trustee shall designate any portion of payment of principal on the Obligations paid by the Insurer, whether by virtue of mandatory payment or other advancement of payment, on its books as a reduction in the principal amount of the Obligations registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Obligation to the Insurer, registered in the name directed by the Insurer, in a principal amount equal to the amount of principal so paid (without regard to Authorized Denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Obligation shall have no effect on the amount of principal or interest payable by the City on any Obligation or the subrogation or assignment rights of the Insurer.

(e) Payments with respect to claims for interest on and principal of the Obligations disbursed by the Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the City with respect to such Obligations, and the Insurer shall become the owner of such unpaid Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise.

(f) Irrespective of whether any such assignment is executed and delivered, the City and the Trustee agree for the benefit of the Insurer that:

(1) The City and the Trustee recognize that to the extent the Insurer makes payments directly or indirectly (*e.g.*, by paying through the Trustee), on account of principal of or interest on the Obligations, the Insurer will be subrogated to the rights of such Owners to receive the amount of such principal and interest from the City, with interest thereon, as provided and solely from the sources stated in the Purchase Agreement, this Trust Agreement and the Obligations; and

(2) The City and the Trustee will accordingly pay to the Insurer the amount of such principal and interest, with interest thereon as provided in the Purchase Agreement, this Trust Agreement and the Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest

on the Obligations to Owners, and will otherwise treat the Insurer as the owner of such rights to the amount of such principal and interest.

Section 13.8. Exercise of Rights by the Insurer.

(a) The rights granted to the Insurer under the Purchase Agreement and this Trust Agreement, to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Owners of the Obligations and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Owners of the Obligations or any other person is required in addition to the consent of the Insurer.

(b) The Insurer shall be entitled to pay principal of or interest on the Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the City (as such terms are defined in the Policy) in accordance with the Purchase Agreement or this Trust Agreement, whether or not the Insurer has received a claim upon the Policy.]

[Remainder of page left blank intentionally.]

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

U.S. BANK NATIONAL ASSOCIATION, 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.¹

Number: R-.....

Principal Amount: \$.....

CITY OF SAN LUIS, ARIZONA
PLEDGED EXCISE TAX REVENUE REFUNDING OBLIGATION,
[TAX-EXEMPT²/TAXABLE³] SERIES 2017[A²/B³]

<u>Interest Rate:</u>	<u>Payment Date:</u>	<u>Dated Date:</u>	<u>CUSIP:</u>
.....%	July 1, 20.....	_____, 2017	79854W

REGISTERED OWNER: CEDE & CO.¹

PRINCIPAL AMOUNT: DOLLARS

THIS IS TO CERTIFY THAT the registered owner identified above, or registered assigns, as the registered owner of this Pledged Excise Tax Revenue Refunding Obligation, [Tax-Exempt²/Taxable³] Series 2017[A²/B³] (this “Obligation”) is the owner of an undivided, participatory, proportionate interest in the right to receive certain “Payments” under and defined in that certain Second Excise Tax Purchase Agreement, dated as of _____ 1, 2017 (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 Second Excise Tax Trust Agreement, dated as of _____ 1, 2017 (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

¹ Insert so long as DTC is the Securities Depository.

² Insert in the Tax-Exempt Obligation.

³ 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, 20__ (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 August 30, 2017. 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.^{1]}

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.^{2]}

[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, 2034, 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:

Year Prepaid

Principal Amount Prepaid

Principal represented by the Obligations payable on July 1, 2038, 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:

Year Prepaid

Principal Amount Prepaid

Whenever Obligations payable on July 1, 20__, and 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__, and July 1,

¹ Insert in the Tax-Exempt Obligation.

² Insert in the Taxable Obligation.

20__, so retired shall satisfy and be credited against the mandatory prepayment requirements for such Obligations payable on July 1, 20__, and 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 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.^{1]}

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

¹ Insert in the Tax-Exempt Obligation.

[STATEMENT OF INSURANCE

Build America Mutual Assurance Company (“BAM”), New York, New York, has delivered its municipal bond insurance policy (the “Policy”) with respect to the scheduled payments of principal of and interest on this Obligation to U.S. Bank National Association, or its successor, as trustee for the Obligations (the “Trustee”). Said Policy is on file and available for inspection at the principal office of the Trustee and a copy thereof may be obtained from BAM or the Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Obligations, the Owner acknowledges and consents to the subrogation and all other rights of BAM as more fully set forth in the Policy.]

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.