
ESCROW TRUST AGREEMENT

by and between

THE CITY OF SAN LUIS, ARIZONA,

and

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

Dated as of _____ 1, 2017

ESCROW TRUST AGREEMENT

THIS ESCROW TRUST AGREEMENT, dated as of _____ 1, 2017, by and between THE CITY OF SAN LUIS, ARIZONA (the "City"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America and authorized to exercise trust powers under the laws of the State of Arizona, as escrow trustee (the "Trustee"),

W I T N E S S E T H:

WHEREAS, the Mayor and Council of the City determined that it would be beneficial to its citizens to finance the costs of acquisition and renovation of a building and related site and reimbursement of cost overruns associated with certain capital improvements (the "Project"); and

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

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

WHEREAS, in order to obtain the funds with which it made the loan pursuant to the Loan Agreement, GADA issued and sold its Infrastructure Revenue Bonds, Series 2009A (the "GADA Bonds");

WHEREAS, pursuant to Section 2(h) of the Loan Agreement, any installment of principal due from the City (a) with respect to the GADA Taxable Loan (as defined in the Loan Agreement) maturing on or after August 1, 2020, may be prepaid by the City so that such amount of the corresponding GADA Taxable Bonds (as defined in the Loan Agreement) may be redeemed at any time on or after August 1, 2019, or (b) with respect to the GADA Tax-Exempt Loan (as defined in the Loan Agreement) maturing on or after August 1, 2019, may be prepaid by the City so that such amount of the corresponding GADA Tax-Exempt Bonds (as defined in the Loan Agreement) may be redeemed at any time on or after August 1, 2018, in either case at a prepayment price equal to the principal amount being prepaid (in integral multiples of \$5,000), together with accrued interest to the prepayment date, interest from the prepayment date until the prepayment of the corresponding GADA Bonds and any premium coming due on the prepayment date for the corresponding GADA Bonds; and

WHEREAS, pursuant to Section 9 of the Loan Agreement, the City may provide for the payment of any principal and interest with respect to the Loan Agreement by depositing in trust for such purpose, any United States Obligations which are noncallable, in such amount as shall be certified to GADA and the City, by a national firm of certified public accountants acceptable to both GADA and the City, as being fully sufficient, together with the interest to

accrue thereon and moneys then on deposit with GADA and allocated to such payment, to make, or cause to be made, such payment at its scheduled due date or on a date on which it can be prepaid; and

WHEREAS, cash and certain obligations described herein have been deposited with the Trustee to pay all of the remaining amounts due pursuant to the Loan Agreement (the "Obligation Being Prepaid");

WHEREAS, the Mayor and Council of the City authorized this Escrow Trust Agreement with the Trustee with respect to the safekeeping and handling of the moneys and securities to be held in trust for the payment of the Obligation Being Prepaid; and

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

Section 1. On _____, 2017 (the "Delivery Date"), the City deposited, or caused to be deposited, cash in the amount of \$_____ (the "Initial Cash Deposit"), which cash shall be held uninvested, and the securities described in in the Verification Report (the "Securities") of Grant Thornton LLP regarding the Obligation Being Prepaid (the "Report") (or additional funds sufficient to permit the Trustee to purchase such securities on the Delivery Date), to be held by the Trustee in a special and separate trust fund, designated as the "City of San Luis, Arizona Refunding Trust Fund (2017)" (the "Trust Fund"). As determined in the Report, the principal amount of the Securities, together with the scheduled interest thereon and the Initial Cash Deposit, are sufficient to assure that the funds available in the Trust Fund shall be sufficient to pay promptly the principal of and interest with respect to the Obligation Being Prepaid as the same becomes payable or is prepaid.

Section 2. (A) The Trustee shall, at all times, hold the Securities and the Initial Cash Deposit in the Trust Fund for the account of the City and for the benefit of the obligees of the Obligation Being Prepaid and shall maintain the Trust Fund wholly segregated from other funds and securities on deposit with the Trustee, shall never commingle the Securities and other moneys with other funds or securities of the Trust Fund and shall never at any time use, loan or borrow the same in any way, so that sufficient funds always shall be available to pay the interest and principal requirements with respect to the Obligation Being Prepaid as the same accrue and become due and payable from time to time, at payment or prepayment, as set forth in the Report (collectively, the "Payment Schedules").

(B) The Trustee shall reinvest cash balances held in the Trust Fund, to the extent not required for the payment of the principal of and interest with respect to the Obligation Being Prepaid, in United States Treasury Certificates of Indebtedness, State and Local Government Series ("SLGS"), at a zero percent (0.0%) interest rate, maturing on the semiannual debt service payment date for the Obligation Being Prepaid (the "Restricted Reinvestment Obligations"), provided that amounts which may not be so invested shall be held in cash and shall not be invested. (The Initial Cash Deposit shall be held in the Trust Fund in cash and shall not be invested.) Such investments shall be made only to the extent permitted by, and shall be made in accordance with, the applicable statutes, rules and regulations governing such

investments issued by the Bureau of Fiscal Service. Such rules and regulations currently require that a subscription for purchase of the investment be submitted at least fifteen (15) (or, for subscriptions of less than \$10,000,000 five (5)) but no more than sixty (60) days prior to the date of investment. If the Trustee learns that the Department of the Treasury or the Bureau of Fiscal Service will not, for any reason, accept a subscription of SLGS that is to be submitted pursuant to this Escrow Trust Agreement, the Trustee shall promptly request alternative written investment instructions from the City with respect to funds which were to be invested in SLGS. Such instructions shall provide that alternative investments shall be in the form of any United States Obligations which are noncallable. The Trustee shall follow such instructions and, upon the maturity of any such alternative investment (the "Alternate Investment"), the Trustee shall hold such funds uninvested and without liability for interest until receipt of further written instructions from the City. In the absence of investment instructions from the City, the Trustee shall not be responsible for the investment of such funds or interest thereon. The Trustee may conclusively rely upon the City's selection of an Alternate Investment as a determination of the Alternate Investment's legality and suitability and shall not be liable for any losses related to the Alternate Investments or for compliance with any yield restriction applicable thereto.

(C) The Trustee may sell or redeem the Securities in advance of their maturity dates and invest the proceeds of such sale or redemption or other moneys credited to the Trust Fund in connection with such sale or redemption in other non-callable obligations issued or guaranteed by the United States of America (the "Substitute Securities") only upon receipt of written instructions from the City to do so and receipt by the parties hereto and the Obligations Trustee and GADA of the following, addressed to each such party: (1) an opinion in form and substance satisfactory to them from a nationally recognized bond counsel to the effect that such action will not affect adversely the status of the interest on the Obligation Being Prepaid for federal income tax purposes and will not affect adversely the right of the City to issue obligations the interest on which is excludable from gross income for federal income tax purposes and (2) a report from a nationally recognized accountant or firm of accountants verifying the accuracy of the arithmetic computations of the adequacy of the proceeds from the liquidation together with any other moneys and the maturing principal of and interest on the Substitute Securities to be credited to the Trust Fund, to pay when due the interest with respect to the Obligation Being Prepaid and the principal of the Obligation Being Prepaid as they become due at maturity. Upon any such sale or redemption of investments and reinvestment, any amounts not needed in the Trust Fund to provide for payments with respect to the Obligation Being Prepaid, as shown by such accountant's report, may be withdrawn from the Trust Fund at the direction of the City and applied for the benefit of the City in accordance with applicable law.

Section 3. The debt service with respect to the Obligation Being Prepaid shall be paid from the Trust Fund from the following sources in the order listed below:

(A) The Initial Cash Deposit.

(B) Cash receipts from the Securities, the Restricted Reinvestment Obligations, the Alternate Investments or the Substitute Securities.

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

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

Section 5. (A) The Trustee shall make timely payments from the Trust Fund to GADA for purposes of amounts due with respect to the Loan Agreement, in the amounts and on the dates necessary to permit the payment when due of the principal of and interest with respect to the Obligation Being Prepaid as the same become due and payable or when the Obligation Being Prepaid are to be prepaid, all as set forth in the Payment Schedules.

(B) The Trustee shall cause the notice of intent to prepay the Loan Repayment Agreement, in substantially the form shown as the Exhibit hereto to be given to GADA and the GADA Trustee (as defined in the Loan Repayment Agreement) at least forty-five (45) days prior to the respective date of prepayment of the GADA Taxable Loan and the GADA Tax-Exempt Loan.

Section 6. If at any time or times there are insufficient funds on hand in the Trust Fund for the payment of the principal of and interest with respect to the Obligation Being Prepaid as the same become due, the Trustee shall promptly notify the City of such deficiency by telephone and by registered or overnight mail, postage prepaid.

Section 7. On or before February 15 and August 15, the Trustee shall submit to the City a report covering all moneys the Trustee has received and all payments the Trustee has made under the provisions hereof during the six-month period ending on the preceding January 31 or July 31. Each such report also shall list all investments and moneys on deposit with the Trustee as of the date of the report.

Section 8. (A) The Trustee shall be entitled to a fee of \$_____ for normally occurring services provided hereunder by it, the receipt of which it hereby acknowledges, and the City shall pay the Trustee for any additional extraordinary fees and expenses (including legal fees and expenses) incurred by it hereunder as agreed between them from time to time.

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

Section 9. When all amounts payable with respect to the Obligation Being Prepaid have become due and the Trustee has on deposit all moneys necessary for the payment of such amounts, and in any event on the business day succeeding the date the Obligation Being Prepaid is paid, the Trustee shall transfer to the City all moneys and investments credited to the Trust Fund in excess of the amounts payable with respect to the Obligation Being Prepaid.

Section 10. This Escrow Trust Agreement shall not be revoked and shall not be amended in any manner which may materially, adversely affect the rights herein sought to be

protected until the provisions of this Escrow Trust Agreement have been fully carried out, as evidenced by an opinion of counsel delivered to the Trustee.

Section 11. (A) The Trustee shall be under no obligation to inquire into or be otherwise responsible for the performance or nonperformance by the City of any of its obligations or to protect any of the rights of the City under any of the proceedings with respect to the Obligation Being Prepaid. The Trustee shall not be liable for any act done or step taken or omitted by it or for any mistake of fact or law or for anything which it may do or refrain from doing except for its negligence or its willful misconduct in the performance of any obligation imposed upon it under the terms of this Escrow Trust Agreement. The Trustee shall not be liable or responsible for any loss resulting from any investment made pursuant to this Escrow Trust Agreement in compliance with the provisions hereof.

(B) None of the provisions of this Escrow Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel and the advice or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel. The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

(C) The Trustee may at any time resign by giving 30 days' written notice of resignation to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Trustee from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the City, the resigning Trustee and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor.

(D) The City shall, to the extent permitted by applicable law, indemnify, defend and hold harmless the Trustee and its officers, directors, employees and agents, from and against and reimburse the Trustee for any and all claims, obligations, liabilities, losses, damages, actions, suits, judgments, reasonable costs and expenses (including reasonable attorneys' and agents' fees and expenses) of whatever kind or nature regardless of their merit, demanded, asserted or claimed against the Trustee directly or indirectly relating to, or arising from, claims against the Trustee by reason of its participation in the transactions contemplated hereby, except to the extent caused by the Trustee's negligence or willful misconduct. The foregoing sentence shall survive the termination of this Escrow Trust Agreement or the earlier resignation or removal of the Trustee.

(E) Anything in this Escrow Trust Agreement to the contrary notwithstanding, in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits).

Section 12. The City shall have the right to audit the records and accounts of the Trustee insofar as they pertain to the trust created hereunder.

Section 13. (A) Except as provided elsewhere herein, neither this Escrow Trust Agreement nor the Trust Fund may be assigned by the Trustee without the prior written consent of the City, which consent, however, shall not be withheld unreasonably. If the Trustee is required by law to divest itself of its interest in its trust department or if the Trustee sells or otherwise assigns all or substantially all of its trust or corporate trust business, then the trust established by this Escrow Trust Agreement shall be continued by the Trustee's successor in interest without further consent of the City being required.

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

Section 14. If any section, paragraph, subdivision, sentence, clause or phrase hereof shall for any reason be held illegal or unenforceable, such decision shall not affect the validity of the remaining portions hereof. The parties hereby declare that they would have executed this Escrow Trust Agreement and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases hereof may be held to be illegal, invalid or unenforceable. If any provision hereof contains any ambiguity which may be construed as either valid or invalid, the valid construction shall be adopted. In construing this Escrow Trust Agreement, it should be noted that the parties intend that the Obligation Being Prepaid to be an obligation the interest on which is excludable from gross income under section 103(a) of the Internal Revenue Code of 1986, as amended, and the provisions hereof should be construed to permit that result.

Section 15. Notice shall be sufficient hereunder, if it is contained in a writing sent to the City at City of San Luis, Arizona, 1090 East Union Street, P.O. Box 1170, San Luis, Arizona 85349, Attention: Finance Director, and to the Trustee at U.S. Bank National Association, 101 North First Avenue, Suite 1600, Phoenix, Arizona 85003, Attention: Global Corporate Trust Services, or any other address which may be designated from time to time by any party in writing delivered to the City or the Trustee, as applicable.

Section 16. This Escrow Trust Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Arizona. This Escrow Trust Agreement expresses the entire understanding and all agreements of the parties hereto with each other with respect to the subject matter hereof and no party hereto has made or shall be bound by

any agreement or any representation to any other party which is not expressly set forth in this Escrow Trust Agreement.

Section 17. (A) To the extent applicable by provision of law, the Trustee acknowledges that this Escrow Trust Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated herein and which provides that the City may within three years after its execution cancel any contract (including this Escrow Trust Agreement) without penalty or further obligation made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

(B) To the extent applicable under Section 41-4401, Arizona Revised Statutes, the Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the “e-verify” requirements under Section 23-214(A), Arizona Revised Statutes, as amended. The breach by the Trustee of the foregoing shall be deemed a material breach of this Escrow Trust Agreement and may result in the termination of the services of the Trustee by the City. The City retains the legal right to randomly inspect the papers and records of the Trustee to ensure that the Trustee is complying with the foregoing. The Trustee shall keep such papers and records open for random inspection during normal business hours by the City. The Trustee shall cooperate with the random inspections by the City including granting the City entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential. The City shall preserve the confidentiality of any information, records, or papers the City needs, accesses, or otherwise obtains during any and every such random inspection, including, without limitation, such information.

(C) Pursuant to Section 35-393 et seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this Escrow Trust 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 18. This Escrow Trust Agreement may be executed in several counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

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

CITY OF SAN LUIS, ARIZONA

By.....
Mayor

ATTEST:

.....
Clerk

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By.....
Authorized Officer

U.S. BANK NATIONAL ASSOCIATION,
as Trustee with respect to the GADA Bonds

By.....
Authorized Representative

and

GREATER ARIZONA DEVELOPMENT
AUTHORITY

By.....

Printed Name:

Title:

EXHIBIT

NOTICE OF INTENT TO PREPAY
AND PROVIDING FOR PAYMENT

CITY OF SAN LUIS, ARIZONA
LOAN REPAYMENT AGREEMENT,
WITH GREATER ARIZONA DEVELOPMENT AUTHORITY,
DATED AS OF FEBRUARY 1, 2009

TO: U.S. BANK NATIONAL ASSOCIATION
GREATER ARIZONA DEVELOPMENT AUTHORITY

Notice is hereby given that the payment of all principal installments of the above described loan has been provided for pursuant to Section 9 of the above-described Loan Repayment Agreement, dated as of February 1, 2009 (the "Loan Repayment Agreement"), by and between the City of San Luis, Arizona (the "City"), and the Greater Arizona Development Authority ("GADA") by the deposit, with U.S. Bank National Association in trust for such purpose, of cash and United States Obligations which are non-callable, in such amount as had been certified to GADA and the City in a verification report (the "Verification Report") by a national firm of certified public accountants acceptable to both GADA and the City, as being fully sufficient, together with interest to accrue thereon, to make, or cause to be made, the payments on the dates and in the amounts (plus interest accrued thereon to the prepayment date) as set forth in the Verification Report. The GADA Tax-Exempt Loan (as defined in the Loan Repayment Agreement) will be prepaid on _____ 1, 2018. The GADA Taxable Loan (as defined in the Loan Repayment Agreement) will be prepaid on _____ 1, 2019.

Date:, 20...

CITY OF SAN LUIS, ARIZONA