



# *Resolution*

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

No. 2007

**RESOLUTION OF THE MAYOR AND COUNCIL OF CITY OF SAN LUIS, ARIZONA, APPROVING THE SALE AND EXECUTION AND DELIVERY OF PLEDGED EXCISE TAX REVENUE REFUNDING OBLIGATIONS IN ONE OR MORE SERIES EVIDENCING A PROPORTIONATE INTEREST OF THE OWNERS THEREOF IN A SECOND EXCISE TAX PURCHASE AGREEMENT; APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH PURCHASE AGREEMENT, A SECOND EXCISE TAX TRUST AGREEMENT, AN ESCROW TRUST AGREEMENT, A CONTINUING DISCLOSURE UNDERTAKING, AN OBLIGATION PURCHASE CONTRACT AND OTHER NECESSARY AGREEMENTS; DELEGATING AUTHORITY TO THE MAYOR, CITY MANAGER AND DIRECTOR OF FINANCE OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; ADOPTING POST-ISSUANCE TAX COMPLIANCE PROCEDURES IN CONNECTION WITH ISSUANCE OF OBLIGATIONS OF THE CITY; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Mayor and Council of the City of San Luis, Arizona (the "City"), have determined to prepay amounts due pursuant to the Loan Repayment Agreement, dated as of February 1, 2009 (the "Obligation Being Prepaid"), entered into between the City and the Greater Arizona Development Authority for the purpose of financing and/or refinancing the costs of the acquisition and renovation of a building containing approximately 84,000 rentable square feet and purchase of land; reimbursement for cost overruns associated with miscellaneous capital improvements for the City; funding deposits, if any, to an agreement reserve fund; and paying costs and expenses incidental and related to the sale and issuance of bonds or other obligations (collectively, the "Prior Project"), by entering into a Second Excise Tax Purchase Agreement, to be dated as of the first day of the month of the dated date of the hereinafter described Obligations established as provided herein (the "Purchase Agreement"), with an entity to be determined by the City Manager or Director of Finance of the City (the "Trustee"), in its separate capacity as "Seller"; and

**WHEREAS**, in connection with the Purchase Agreement, the Mayor and Council of the City have deemed it necessary and desirable to provide for the sale and execution and

delivery of pledged revenue refunding obligations in one or more series, provided for by this Resolution (the "Obligations"), evidencing proportionate interests of the owners of the Obligations in payments to be made by the City to the Trustee pursuant to the Second Excise Tax Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations (the "Trust Agreement"), between the Trustee and the City, such payments to be made pursuant to the Purchase Agreement; and

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

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

**WHEREAS**, pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder (the "Regulations"), issuers of obligations, the interest on which is intended to be excludable from the gross income of the owners thereof for federal income tax purposes ("Tax-Exempt Obligations"), are required to establish policies and procedures to ensure compliance with the applicable provisions of the Code and the Regulations; and

**WHEREAS**, it is determined that procedures should be adopted in order to ensure that Tax-Exempt Obligations issued by the City comply with the provisions of the Code and the Regulations (the "Procedures"); and

**WHEREAS**, there have been presented to the Mayor and Council of the City at the meeting at which this Resolution is being adopted (1) the proposed form of the Purchase Agreement; (2) the proposed form of the Trust Agreement; (3) the proposed form of an Escrow Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations (the "Escrow Trust Agreement"), with the Trustee, in its separate capacity as escrow trustee (the "Escrow Trustee"), for the establishment of an escrow to pay principal of and interest on the Obligation Being Prepaid and to prepay amounts due pursuant to the Obligation Being Prepaid; (4) the proposed form of a Continuing Disclosure Undertaking, to be dated the date of delivery of the Obligations (the "Undertaking"), from the City necessary for purposes of compliance with Securities and Exchange Commission Rule 15c2-12; (5) the proposed form of the Obligation Purchase Contract, to be dated the date of the sale of the Obligations (the "Purchase Contract"), by and between the City and the Underwriter, for the purchase of the Obligations; (6) the proposed form of the Preliminary Official Statement, to be dated the date of the dissemination thereof (the "Preliminary Official Statement"), relating to the Obligations,

which, as to be revised after the sale of the Obligations, shall constitute the Official Statement, to be dated the date of sale of the Obligations (the "Official Statement"), relating to the Obligations and (7) the proposed form of the Procedures; and

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

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

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

(b) The City Manager or Director of Finance of the City are each authorized to determine on behalf of the City the series name and designation of the Obligations; whether the interest income on each series of the Obligations will be tax-exempt or taxable for federal income tax purposes; whether the Obligations for which the interest income thereon is tax-exempt for federal income taxes may be designated as "qualified tax-exempt obligations" for purposes of section 265(b)(3) of the Code; the date the Obligations are to be sold to the Underwriter; the entity which will serve as the Trustee with respect to the Obligations; the total aggregate principal amount of the Obligations which are to be executed and delivered; the date the Obligations are to be dated; the dates on which interest on the Obligations is to be payable and the interest rates per annum the Obligations are to bear; the dates the Obligations are to mature, the principal amounts to mature on such dates and the provisions for prepayment thereof in advance of such dates; the provision for prepayment of the Obligation Being Prepaid (including the amounts and dates of prepayment thereof), the provision for credit enhancement including the funding of a debt service reserve fund and the terms upon which the Obligations are to be sold to the Underwriter (including determinations of price, original issue discount and premium and underwriting compensation); provided, however, that the foregoing determinations shall result in present value savings net of all costs of issuance of at least three percent (3%) of the principal amount of the Obligation Being Prepaid.

(c) The City Manager and Director of Finance of the City are further each authorized to determine on behalf of the City whether the purchase of an insurance policy securing payment of the Obligations or, if a debt service reserve fund is to be funded, a surety bond or other reserve fund guaranty which would be a "qualified guaranty" for purposes of the Internal Revenue Code of 1986, as amended, would be advantageous to the City or the terms of the financing represented by the Obligations. The City Manager and Director of Finance of the City are each authorized to negotiate with and secure, with proceeds of the Obligations or otherwise, such an insurance policy or a reserve fund guaranty, or both, from one or more institutions, the claims-paying ability of which are then

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

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

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

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

**Section 4.** The Procedures are hereby adopted to establish policies and procedures in connection with Tax-Exempt Obligations issued by the City to ensure that all applicable post-issuance requirements of the Code and the Regulations needed to preserve the status of such Tax-Exempt Obligations are met. The right to use discretion as necessary and appropriate to make exceptions or request additional provisions with respect to the Procedures as may be determined is hereby reserved. The right to change the Procedures from time to time, without notice, is also reserved.

**Section 5.** The distribution of the Preliminary Official Statement by the Underwriter is approved, and the Final Official Statement in substantially the form of the Preliminary Official Statement, with such changes or revisions therein from the form of the Preliminary Official Statement as may be approved by the Mayor of the City or any other member of the Council executing the same, is approved, and the Mayor of the City or any other member of the Council is authorized, empowered and directed, in the name and on behalf

of the City, to execute and deliver the same to the Underwriter and the Mayor of the City, any other member of the Council, the City Manager or Director of Finance of the City is authorized, empowered and directed to execute and deliver instruments confirming that the Preliminary Official Statement is "deemed final" in accordance with Securities and Exchange Commission Rule 15(c)2-12.

**Section 6.** The Trustee (including in its separate capacities as Seller and the Escrow Trustee) is requested to take any and all action necessary in connection with the execution and delivery of the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract and the Undertaking and the sale and execution and delivery of the Obligations and is further authorized and directed to take such action as may be reasonable for the administration of the trusts so held by it.

**Section 7.** The covenants and agreements contained in the Purchase Agreement as to the pledge of and the lien on the revenues from the Excise Taxes and State Shared Revenues and the restriction on the issuance of further parity obligations secured by the revenues from the Excise Taxes and State Shared Revenues are approved and confirmed.

**Section 8.** The Mayor, the City Manager, the Director of Finance and other officers of the City, on behalf of the City, are authorized and directed, without further order of the Mayor and Council of the City, to do all such acts and things and to execute and deliver all such certificates, proceedings, agreements and other documents as may be necessary or convenient to be executed and delivered on behalf of the City, to evidence compliance with, or further the purposes of, all the terms and conditions of this Resolution and the consummation of the transactions contemplated by the Preliminary Official Statement and the Official Statement and as may be necessary to carry out the terms and intent of this Resolution.

**Section 9.** All actions of the officers and agents of the City which conform to the purposes and intent of this Resolution and which further the sale and execution and delivery of the Obligations as contemplated by this Resolution, whether heretofore or hereafter taken, are ratified, confirmed and approved.

**Section 10.** If any section, paragraph, clause or phrase of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or phrase shall not affect any of the remaining provisions of this Resolution. All orders, resolutions and ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, resolution or ordinance or any part thereof.

**Section 11.** The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, particularly to refinance the Prior Project on the most attractive terms available to the City, and an emergency is hereby declared to exist, and this Resolution will be in full force and effect from and after its passage by the Mayor and Council of the City and it is hereby excepted from the referendum provisions of the Constitution and laws of the State of Arizona. After any of the Obligations are delivered by the Trustee to the Underwriter and upon receipt of payment therefor, this Resolution shall be and remain irrevocable until the Obligations and the interest and premium, if any, thereon shall have been fully paid, cancelled and discharged.

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**PASSED and ADOPTED** by the City Council and approved by the Mayor of the City of San Luis, Arizona, this 30th day of August, 2017.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

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CERTIFICATION

I hereby certify that the foregoing Resolution No. 2007 was duly passed and adopted by the Mayor and Council of the City of San Luis, Arizona, at a regular meeting held on the 30th day of August, 2017, and the vote was ..... ayes and ..... nays.

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Sonia Cornelio, City Clerk