
THIRD EXCISE TAX/STATE SHARED REVENUE PURCHASE AGREEMENT

by and between

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Seller

and

THE CITY OF PEORIA, ARIZONA,
as Purchaser

Dated as of January 1, 2026

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THIRD EXCISE TAX/STATE SHARED REVENUE PURCHASE AGREEMENT

THIS THIRD EXCISE TAX/STATE SHARED REVENUE PURCHASE AGREEMENT, dated as of January 1, 2026 (this “Agreement”), by and between THE CITY OF PEORIA, ARIZONA, a municipal corporation under the laws of the State of Arizona (“City”), as purchaser hereunder, and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association (“Seller”), in its capacity as trustee under the Third Excise Tax/State Shared Revenue Trust Agreement, dated as of even date herewith (the “Trust Agreement”), by and between Seller and City, and in its separate capacity as seller hereunder,

W I T N E S S E T H:

WHEREAS, City determined that it would be beneficial to its citizens to refinance the obligations of City pursuant to a Series 1993 City Lease, dated as of October 1, 1993 (the “1993 City Lease”), between City and Peoria Municipal Development Authority, Inc. (the “Corporation”), being the only remaining obligation of City to the Corporation securing debt issued pursuant to the Trust Indenture, dated as of June 1, 1985, from the Corporation to The Valley National Bank of Arizona (predecessor in interest to J.P. Morgan Trust Company, National Association), as trustee, and a City Lease, dated as of June 1, 1993 (collectively with the 1993 City Lease, the “1993 City Leases”), between City and City of Peoria Municipal Sports Complex Authority; and

WHEREAS, in order to refinance the obligations of City pursuant to the 1993 City Leases, the Corporation and City deemed it necessary and desirable for the Corporation to issue its \$25,015,000 aggregate principal amount of Revenue Refunding Bonds, Series 2003 (the “Series 2003 Bonds”); and

WHEREAS, in connection with the issuance of the Series 2003 Bonds, the Corporation and City entered into a Series 2003 Ground Lease, dated as of June 1, 2003, pursuant to which City leased the real property described on Exhibit A attached thereto to the Corporation and a Series 2003 City Lease, dated as of June 1, 2003 (the “Series 2003 City Lease”), pursuant to which the Corporation leased such real property and the improvements to be included thereon to City; and

WHEREAS, all amounts due pursuant to the Series 2003 City Lease have been paid or provided for, and none of the Series 2003 Bonds remain outstanding; and

WHEREAS, City then determined that it would be beneficial to its citizens to finance the costs of design, construction and outfitting of a community theater (the “First Project”); and

WHEREAS, in order to finance the First Project, the Corporation and City deemed it necessary and desirable for the Corporation to issue its Revenue Bonds, Series 2006 (the “Series 2006 Bonds”); and

WHEREAS, in connection with the issuance of the Series 2006 Bonds, the Corporation and City entered into a Series 2006 Ground Lease, dated as of March 1, 2006, pursuant

to which City leased the real property described on Exhibit A attached thereto to the Corporation and a Series 2006 City Lease, dated as of March 1, 2006 (the “Series 2006 City Lease”), pursuant to which the Corporation leased such real property and the improvements to be included thereon to City, and City, as agent of the Corporation, agreed to design, construct and outfit, as the case may be, the First Project; and

WHEREAS, all amounts due pursuant to the Series 2006 City Lease have been paid or provided for, and none of the Series 2006 Bonds remain outstanding; and

WHEREAS, City then determined that it would be beneficial to its citizens to finance the costs to acquire certain water rights (the “Second Project”) available pursuant to the Lease Agreement for CAP Water, dated May 15, 2006, among the United States of America, the Gila River Indian Community and City; and

WHEREAS, in order to finance the Second Project, the Corporation and City deemed it necessary and desirable for the Corporation to issue its Revenue Bonds, Series 2011 (the “Series 2011 Bonds”); and

WHEREAS, in connection with the issuance of the Series 2011 Bonds, the Corporation and City entered into a Series 2011 Ground Lease, dated as of June 1, 2011, pursuant to which City leased the parcels of real property described on Exhibit A attached thereto to the Corporation and a Series 2011 City Lease, dated as of June 1, 2011 (the “Series 2011 City Lease”), pursuant to which the Corporation leased such real property and the improvements included thereon to City, and City, as agent of the Corporation, agreed to provide for the acquisition of the Second Project; and

WHEREAS, all amounts due pursuant to the Series 2011 City Lease have been paid or provided for, and none of the Series 2011 Bonds remain outstanding; and

WHEREAS, City then determined that it would be beneficial to its citizens to finance the costs of renovations to the “Peoria Sports Complex” (the “Third Project”); and

WHEREAS, in order to finance the Third Project, the Corporation and City deemed it necessary and desirable for the Corporation to issue its Revenue Bonds, Series 2012 (the “Series 2012 Bonds”); and

WHEREAS, in connection with the issuance of the Series 2012 Bonds, the Corporation and City entered into a Series 2012 City Purchase Agreement, dated as of July 1, 2012 (the “Series 2012 City Lease” and, together with the Series 2011 City Lease, the “Existing Agreements”), pursuant to which, among other things, City, as agent of the Corporation, agreed to provide for the Third Project; and

WHEREAS, all amounts due pursuant to the Series 2012 City Lease have been paid or provided for, and none of the Series 2012 Bonds remain outstanding; and

WHEREAS, City then determined that it would be beneficial to its citizens for City to prepay the remaining, unpaid amounts due pursuant to the Series 2006 City Lease; and

WHEREAS, in order to prepay the remaining, unpaid amounts due pursuant to the Series 2006 City Lease, City deemed it necessary and desirable to cause the execution and delivery of the City of Peoria, Arizona Pledged Excise Tax/State Shared Revenue Refunding Obligation, Series 2017 (the “Series 2017 Obligation”); and

WHEREAS, in connection with the execution and delivery of the Series 2017 Obligation, City and Zions Bank, a division of ZB, National Association, entered into a First Excise Tax/State Shared Revenue Purchase Agreement, dated as of October 1, 2017 (the “First Purchase Agreement”), pursuant to which, among other things, City agreed to provide for the prepayment of the remaining, unpaid amounts due pursuant to the Series 2006 City Lease; and

WHEREAS, City then determined that it would be beneficial to its citizens for City to prepay the remaining, unpaid amounts due pursuant to the Existing Agreements; and

WHEREAS, in order to prepay the remaining, unpaid amounts due pursuant to the Existing Agreements, City deemed it necessary and desirable to cause the execution and delivery of the City of Peoria, Arizona Pledged Excise Tax/State Shared Revenue Refunding Obligations, Series 2022 (the “Series 2022 Obligations”); and

WHEREAS, in connection with the execution and delivery of the Series 2022 Obligations, City and U.S. Bank Trust Company, National Association, entered into a Second Excise Tax/State Shared Revenue Purchase Agreement, dated as of April 1, 2022 (the “Second Purchase Agreement”), pursuant to which, among other things, City agreed to provide for the prepayment of the remaining, unpaid amounts due pursuant to the Existing Agreements; and

WHEREAS, pursuant to Section 2 of the First Purchase Agreement and the Second Purchase Agreement, there is a first lien upon amounts of revenues from the Excise Taxes (as such term and all other undefined terms used herein are defined in the Trust Agreement) and the State Shared Revenues for payments due with respect to the First Purchase Agreement and the Second Purchase Agreement; and

WHEREAS, City has now determined that it will be beneficial to its citizens for City to finance the costs of a City fleet maintenance facility (the “Project”); and

WHEREAS, for such purpose, City requested that Seller sell and execute and deliver the Obligation, and Seller has, as described in the Trust Agreement, caused deposits to be made to the Acquisition Fund and the Costs of Issuance Fund; and

WHEREAS, pursuant to Section 2 of this Agreement, the pledge of revenues from the Excise Taxes and the State Shared Revenues to the Payments will be a first lien pledge thereof, on parity with the first lien of such amounts of revenues from the Excise Taxes and the State Shared Revenues with respect to the payments due pursuant to the First Purchase Agreement and the Second Purchase Agreement; and

WHEREAS, City is a municipal corporation duly incorporated and validly existing under the laws of the State; the Constitution and the laws of the State authorize City to enter into this Agreement and the transactions contemplated by this Agreement; City has duly authorized

and executed this Agreement; this Agreement is a lawful, valid and binding obligation of City, enforceable against City in accordance with its terms; all required procedures for execution and performance of this Agreement have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes; neither the execution and delivery of this Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which City is now a party or by which City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of City; and the Project complies with all applicable environmental laws, rules and regulations (including, without limitation, all federal, state and local laws) and with Title III of the Americans with Disabilities Act and the regulations issued thereunder by the United States Department of Justice concerning accessibility of places of public accommodation and commercial facilities if and to the extent such Act and regulations apply to the Project; and

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

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

Section 1. Term and Payments.

(a) In order to finance the costs of the Project, City sells and conveys any interests it has in the Project to Seller, without recourse, representation or warranty, for the sum of \$10.00 and other valuable consideration had and received. For the amounts payable pursuant hereto (including the Payments), Seller in turn hereby sells and conveys back to City, without recourse, representation or warranty, and City hereby purchases from Seller, any interests Seller has in the Project. Seller shall have no further obligation to provide funds for the Project, and City shall be entitled to sole and exclusive possession of the Project.

(b) As the purchase price, City shall pay the Payments to Seller on the dates and in the amounts set forth in the Schedule hereto. (The Interest Portion is interest for purposes of the Code.) This Agreement shall be deemed and construed to be a “*net purchase agreement*,” and the Payments shall be an absolute net return to Seller, free and clear of any expenses or charges whatsoever, except as otherwise specifically provided herein.

City shall further also pay to Seller its fees and expenses in accordance with the provisions of the Trust Agreement and to the United States of America any amounts required by Section 11(b)(ii).

City shall receive a credit against amounts so due, equal to any amounts held in the Payment Fund in excess of the amount then required to be in the Payment Fund. If the balance available in the Payment Fund after a Payment is insufficient to make the next required payments of principal and interest due on the Obligation on the next date for payment thereof, City shall pay any such

deficiency in sufficient time to prevent default in the payment of principal of or interest on the Obligation falling due on such date.

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

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

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

Section 2. Pledge; Limited Obligations.

(a) City hereby irrevocably pledges for the payment of the Payments revenues from the Excise Taxes and the State Shared Revenues. City intends that this pledge shall be a first lien upon such amounts of revenues from the Excise Taxes and the State Shared Revenues as will be sufficient to make the Payments when due, on parity with the first lien of such amounts of revenues from the Excise Taxes and the State Shared Revenues with respect to the First Purchase Agreement and the Second Purchase Agreement. City shall make said payments from revenues from the Excise Taxes and the State Shared Revenues, except to the extent it chooses to make the payments from other funds pursuant to this Section, first paying the United States of America any amounts required by Section 11(b)(ii) and making the Payments and thereafter making the other required payments. Said pledge of, and said lien on, revenues from the Excise Taxes and the State Shared Revenues is hereby irrevocably made and created for the prompt and punctual payment of the amounts due hereunder according to the terms hereof and to maintain the funds as hereinafter

specified in this Agreement and the Trust Agreement. All of the Payments are coequal as to the pledge of and lien on revenues from the Excise Taxes and the State Shared Revenues pledged for the payment thereof and share ratably, without preference, priority or distinction, as to the source or method of payment from revenues from the Excise Taxes and the State Shared Revenues or security therefor. The rights of the Owners to payment from revenues from the Excise Taxes and the State Shared Revenues are on a parity with the rights to payment from revenues from the Excise Taxes and the State Shared Revenues of the First Purchase Agreement, the Second Purchase Agreement and any Parity Obligations.

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

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

Section 3. Surplus and Deficiency of Revenues from Excise Taxes and State Shared Revenues. Revenues from the Excise Taxes and the State Shared Revenues in excess of amounts, if any, required to be deposited with or held by Seller for payments due under this Agreement and the Trust Agreement shall constitute surplus revenues and may be used by City for any lawful purpose for the benefit of City, including the payment of obligations to which revenues from the Excise Taxes and the State Shared Revenues may from time to time be pledged on a basis subordinate hereto. If at any time the moneys in the funds held for payment of amounts due under this Agreement or the Trust Agreement are not sufficient to make the deposits and transfers required, any such deficiency shall be made up from the first moneys thereafter received and available for such transfers under the terms of this Agreement and, with respect to payment from revenues from the Excise Taxes and the State Shared Revenues, *pro rata*, as applicable, with amounts due with respect to the First Purchase Agreement, the Second Purchase Agreement, this Agreement and any Parity Obligations, and the transfer of any such sum or sums to said fund as may be necessary to make up any such deficiency shall be in addition to the then-current transfers required to be made pursuant hereto.

Section 4. Parity Obligations. So long as the Obligation remains outstanding and the principal and interest thereon shall be unpaid or unprovided for or any other amounts

remain unpaid or unprovided for hereunder, City shall not further encumber revenues from the Excise Taxes or the State Shared Revenues on a basis equal to the pledge hereunder unless revenues from the Excise Taxes plus the State Shared Revenues, in the next preceding Fiscal Year, shall have amounted to at least three (3) times the highest combined interest and principal requirements for any succeeding Fiscal Year for the First Purchase Agreement, the Second Purchase Agreement, this Agreement and any Parity Obligations (*i.e.*, those already, or so proposed to be, secured by such pledge).

Section 5. City Control over Revenue Collection.

(a) To the extent permitted by applicable law, revenues from the Excise Taxes shall be retained and maintained so that the amounts received from revenues from the Excise Taxes and the State Shared Revenues, all within and for the next preceding Fiscal Year, shall, have been equal to at least three (3) times the total of interest and principal requirements for the current Fiscal Year for the First Purchase Agreement, the Second Purchase Agreement, this Agreement and any Parity Obligations. If revenues from the Excise Taxes and the State Shared Revenues for any such Fiscal Year shall not have been equal to at least three (3) times the total of the interest and principal requirements for the current Fiscal Year for the First Purchase Agreement, the Second Purchase Agreement, this Agreement and any Parity Obligations or if at any time it appears that revenues from the Excise Taxes and the State Shared Revenues will not be sufficient to meet such requirements, City shall, to the extent permitted by applicable law, either impose new exactions of the type of the Excise Taxes which will be part of the Excise Taxes or increase the rates for the Excise Taxes currently imposed in order that (a) revenues from the Excise Taxes and the State Shared Revenues will be sufficient to meet all current requirements hereunder, and (b) revenues from the Excise Taxes and the State Shared Revenues will be reasonably calculated to attain the level as required by the first sentence of this subsection.

(b) The Excise Tax/State Shared Revenue Fund established in connection with the Existing Agreements is hereby expanded to provide for the purposes of this Agreement and, after paying therefrom amounts for the purposes described in the First Purchase Agreement, the Second Purchase Agreement and herein, such Fund may be reduced to zero, including by transferring any such balance to the General Fund of City.

Section 6. Certain Matters with Respect to Project.

(a) Except with respect to its power and authority to enter into this Agreement and to perform its covenants hereunder, Seller has made and makes no representation or warranty, express or implied, and assumes no obligation with respect to the title, merchantability, condition, quality or fitness of the Project for any particular purpose or the conformity of the Project to any plans, specifications, construction contract, purchase order, model or sample, or as to their design, construction, delivery, installation, construction oversight and operation or their suitability for use by City. All such risks shall be borne by City without in any way excusing City from its obligations under this Agreement, and Seller shall not be liable to City for any damages on account of such risks. Except with respect to any acts by Seller which are not undertaken at the request of City or with the prior approval of City, City waives all claims against Seller related to or arising from the construction of the Project. Seller shall have no liability to

City for any failure of any contractor to perform any contract or other undertaking with respect to the Project in any respect. Seller shall have no obligation to obtain or insure compliance with any required permits or approval procedures with respect to the Project. In the event of any defect in any item of the Project or other claim with respect to the Project, recourse of City shall be against the contractors, manufacturers, suppliers, etc. of the Project and, where applicable, the person selling the property to Seller, and not against Seller. For such purpose, Seller hereby assigns and transfers to City the right, title and interest of Seller in and to all representations, warranties, guarantees and service agreements relating to the Project made or entered into by Seller and by any contractor, manufacturers, suppliers, etc. of the Project. Seller further designates City as its attorney-in-fact granting to City the right to initiate and take all actions necessary to enforce any and all construction contracts and all such warranties and service agreements with the same force and effect as Seller could do if the foregoing assignment had not been made. Seller is entering into this Agreement in its capacity as Seller and as trustee pursuant to the Trust Agreement and shall not be personally liable hereunder and shall be afforded the same rights, protections, immunities and indemnities acting hereunder as afforded to it as trustee under the Trust Agreement. Notwithstanding anything to the contrary herein, at no time shall Seller be listed in the chain of title to the Project. Provisions governing the rights, immunities and protections of Seller under the Trust Agreement are herein incorporated by reference into this Agreement as though fully set forth herein.

(b) Seller hereby irrevocably appoints City as its sole and exclusive agent to act for and on behalf of Seller in financing the costs of the Project. As such agent, City shall have full authority to do all things necessary to accomplish such purpose. Seller shall not be liable, responsible or accountable for the acts of City as its agent hereunder, and City hereby assumes all responsibility for the performance of such duties.

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

(d) Notwithstanding any other terms or provisions of this Agreement, the interest of Seller in the Project is solely in its capacity as Seller for the purpose of facilitating the financing of the Project, and Seller shall not have the power, authority or obligation to assume any responsibility for the overall management or maintenance of the Project, including, without limitation, any day-to-day decision-making or operational aspects of the Project.

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

(a) by paying such Payment as provided herein as and when the same becomes due and payable at its scheduled due date pursuant to Section 1 hereof or on a date on which it can be prepaid;

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

(c) by depositing with a Depository Trustee, in trust for such purpose, any Defeasance Obligations which are noncallable, in such amount as shall be certified to Seller and City, by a national firm of certified public accountants acceptable to City, as being fully sufficient, together with the interest to accrue thereon and moneys then on deposit with Seller and available for 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.

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

Section 9. Default; Remedies Upon Default.

(a) (i) Upon (A) the nonpayment of the whole or any part of any of the amounts described in Subsection 1(b) hereof (including the Payments) at the time when the same are to be paid as provided herein or in the Trust Agreement, (B) the violation by City of any other representation, covenant or provision of this Agreement or the Trust Agreement, (C) the occurrence of an event of default with respect to the First Purchase Agreement, the Second Purchase Agreement or any Parity Obligations, or (D) the insolvency or bankruptcy of City as the same may be defined under any law of the United States of America or the State, or any voluntary or involuntary action of City or others to take advantage of, or to impose, as the case may be, any law for the relief of debtors or creditors, including a petition for reorganization, and

(ii) if such default has not been cured (A) in the case of nonpayment of any of the amounts described in Subsection 1(b) hereof (including the Payments) as required hereunder or under the Trust Agreement on the due date or the nonpayment of principal or interest due with respect to the First Purchase Agreement, the Second Purchase Agreement or any Parity Obligations on their due dates, (B) in the case of the breach of any other covenant or provision of the Trust Agreement or this Agreement not cured within thirty (30) days after notice in writing from Seller specifying such default, and (C) in the case of any other default under any of the First Purchase Agreement, the Second Purchase Agreement or any Parity Obligations after any notice and passage of time provided for under the proceedings under which such obligations were issued then,

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

Each right, power and remedy of Seller provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for herein, or, unless prohibited by the terms hereof, now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise or beginning of the exercise by Seller of any one or more of the rights, powers or remedies provided for herein or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by either party of any or all of such other rights, powers or remedies. The failure to insist upon strict performance of any of the covenants or agreements herein set forth shall not be considered or taken as a waiver or relinquishment for the future of the rights of Seller to insist upon a strict compliance by City with all the covenants and conditions hereof. City shall, upon not less than 10 days' prior request by Seller, execute, acknowledge and deliver to Seller a statement in writing certifying that this Agreement is unmodified and in full force and effect (or, if this Agreement has been modified, that it is in full force and effect except as modified, and stating the modification), and the dates to which the amounts payable hereunder have been paid in advance, if any.

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

Section 10. Assignment.

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

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

Section 11. Federal Law Provisions.

(a) (i) As described in further detail in the Tax Certificate, no direction by City for the making of any investment or other use of the proceeds of the Obligation or of the Project shall be made, permitted to be made or omitted from being made which would cause the Obligation to be an “arbitrage bond” as that term is defined in Section 148 (or any successor provision thereto) of the Code or “private activity bonds” as that term is defined in Section 141 (or any successor provision thereto) of the Code, and the requirements of such sections and related regulations of the Code shall be complied with throughout the term of the Obligation. Particularly, City shall be the owner of the Project for federal income tax purposes. City shall not enter into any management or service contract with any entity other than a governmental entity for the operation of any portion of the Project unless the management or service contract complies with the requirements of such authority as may control at the time, or any lease or other arrangement with any entity other than a governmental entity that gives such entity special legal entitlements with respect to any portion of the Project. Also, the payment of principal and interest with respect to the Obligation shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Obligation, or amounts treated as proceeds of the Obligation, shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds may be so invested for an initial temporary period until needed for the purpose for which the Obligation is being executed and delivered, may be so used in making investments in a *bona fide* debt service fund or may be invested in obligations issued by the United States Treasury. City shall comply with the procedures and covenants contained in any arbitrage rebate provision or separate agreement executed in connection with the execution and delivery of the Obligation (initially those in Subsection (b) and the Tax Certificate) for so long as compliance is necessary in order to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion. In consideration of the purchase and acceptance of the Obligation by the owners from time to time thereof and of retaining such exclusion and as authorized by Title 35, Chapter 3, Article 7, Arizona Revised Statutes, City shall, and the appropriate officials of City are hereby directed, to take all action required to retain such exclusion or to refrain from taking any action prohibited by the Code which would adversely affect in any respect such exclusion.

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

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

(C) Written procedures have been established for City to ensure that all nonqualified obligations are remediated according to the requirements under the Code and related Regulations and to monitor the requirements of Section 148 of the Code relating to arbitrage, with which City will comply.

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

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

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

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

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

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

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

(A) The fair market value of a Nonpurpose Investment generally shall be the price at which a willing purchaser would purchase the Nonpurpose Investment from a willing seller in a bona fide arm's length transaction. Fair market value shall

be determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Seller has no duty or obligations under this Section 11 and has no duty to monitor compliance by City with this Section 11.

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

(a) To the extent applicable by provision of law, Seller acknowledges that this Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated herein and which provides that City may within three (3) years after its execution cancel any contract (including this Agreement) without penalty or further obligation made by City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of City is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time. Seller covenants not to employ as an employee, an agent or, with respect to the subject matter of this Agreement, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of City within three years from the execution of this Agreement, unless a waiver of Section

38-511, Arizona Revised Statutes, is provided by City. No basis exists for City to cancel this Agreement pursuant to Section 38-511, Arizona Revised Statutes, as of the date hereof.

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

(c) To the extent applicable under Section 35-393, et seq., Arizona Revised Statutes, Seller 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 City determines that Seller’s certification above is false or that it has breached such agreement, City may remove Seller hereunder as provided by law.

(d) To the extent applicable under Section 35-394, Arizona Revised Statutes, Seller hereby certifies it does not currently, and for the duration of this Agreement shall not use: (i) the forced labor of ethnic Uyghurs in the People’s Republic of China, (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. The foregoing certification is made to the best knowledge of Seller without any current independent investigation or without any future independent investigation for the duration of this Agreement. If Seller becomes aware during the duration of this Agreement that it is not in compliance with such certification, Seller shall take such actions as provided by law, including providing the required notice to City. If City determines that Seller is not in compliance with the foregoing certification and has not taken remedial action, City shall terminate Seller’s role as Seller hereunder pursuant to Article VII of the Trust Agreement.

Section 13. Miscellaneous.

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

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

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

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

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

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

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

[Signature page follows.]

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

Seller:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as seller

By
Authorized Representative

City:

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

By
Mayor

ATTEST:

.....
City Clerk

APPROVED AS TO FORM:

.....
City Attorney

SCHEDULE

PAYMENTS WITH RESPECT TO OBLIGATION

Payment Date	Principal	Interest	Total Payment
07/15/20__			
01/15/20__			
<hr/>			
TOTAL			