

AGENDA



4:30 P.M.

CITY COUNCIL MEETING

TUESDAY, JULY 27, 2021

NOTES:

- Public Forum:
Comments are generally limited to 3 minutes.
- Consent Items:
Items listed under Consent Items have been distributed to Council Members in advance for study and will be enacted by one motion. Any member of the Council, staff or the public may remove an item from the Consent Items for discussion. Items removed from the Consent Items may be acted upon before proceeding to the next agenda item.
- Meeting room is wheelchair accessible. American Disabilities Act (ADA) accommodations are available upon request. Please phone 928-282-3113 at least two (2) business days in advance.
- City Council Meeting Agenda Packets are available on the City's website at:

www.SedonaAZ.gov

GUIDELINES FOR PUBLIC COMMENT

PURPOSE:

- To allow the public to provide input to the City Council on a particular subject scheduled on the agenda.
- This is not a question/answer session.

PROCEDURES:

- It is strongly encouraged that public input on agenda items be submitted by sending an email to the City Clerk at sirvine@sedonaaz.gov in advance of the 4:30 p.m. Call To Order.
- Fill out a "Comment Card" and deliver it to the City Clerk.
- When recognized, use the podium/microphone.
- State your:
 1. Name and
 2. City of Residence
- Limit comments to **3 MINUTES**.
- Submit written comments to the City Clerk.

DUE TO CONTINUED PRECAUTIONS RELATED TO COVID-19, SEATING FOR THE PUBLIC WITHIN THE COUNCIL CHAMBERS IS LIMITED. THOSE WISHING TO COMMENT ON SCHEDULED AGENDA ITEMS MAY BE ASKED TO WAIT OUTDOORS OR IN AN ALTERNATE LOCATION IF THERE IS NOT ADEQUATE SEATING IN COUNCIL CHAMBERS. **COMMENTS IN ADVANCE OF THE 4:30 P.M. CALL TO ORDER ARE STRONGLY ENCOURAGED BY SENDING AN EMAIL TO [SIRVINE@SEDONAAZ.GOV](mailto:sirvine@sedonaaz.gov) AND WILL BE MADE PART OF THE OFFICIAL MEETING RECORD.** THE MEETING CAN BE VIEWED LIVE ON THE CITY'S WEBSITE AT WWW.SEDONAAZ.GOV OR ON CABLE CHANNEL 4.

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE/ROLL CALL

2. CITY'S VISION

3. CONSENT ITEMS - APPROVE

LINK TO DOCUMENT =

- Minutes - July 13, 2021 City Council Special Meeting - Executive Session.
- Minutes - July 13, 2021 City Council Regular Meeting.
- Minutes - July 14, 2021 City Council Special Meeting.
- AB 2704 Approval of a recommendation regarding a Liquor License Agent Change/Acquisition of Control application for the Series 10 Beer & Wine Store Liquor License for Speedway #2881, 2960 W SR 89A, Sedona, AZ (File #152695).
- AB 2707 Approval of a Resolution authorizing the execution of an Intergovernmental Agreement (IGA) between the City of Sedona and the Yavapai County Flood Control District (YCFCD) contributing \$300,000 in drainage funds to be used for the Stormwater Master Plan Update (Phase 3) and design of the Back O' Beyond Crossing Drainage Improvements Project.
- AB 2711 Approval of a Resolution amending an Intergovernmental Agreement between the City of Sedona and the Arizona Department of Transportation for the Sanborn Drive-Thunder Mountain Road Overlay Project.
- AB 2713 Approval of award of a Streets Maintenance Job Order Contract extension with Cactus Asphalt, Inc. and J. Banicki Construction, Inc.
- AB 2464 Approval of the publication of a Revised Notice of Intention to Increase Wastewater Rates in accordance with A.R.S. § 9-511.01 and to set a revised public hearing date at which time Council will consider adoption of a final ordinance changing the City's wastewater capacity fee rates and rate structure.

4. APPOINTMENTS - None.

5. SUMMARY OF CURRENT EVENTS BY MAYOR/COUNCILORS/CITY MANAGER

6. PUBLIC FORUM (This is the time for the public to comment on matters not listed on the agenda. The City Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.)

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ



The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.



Page 2, City Council Meeting Agenda Continued

7. PROCLAMATIONS, RECOGNITIONS & AWARDS - None.

8. REGULAR BUSINESS

- a. AB 2670 **Discussion/possible action** regarding a Resolution approving the sale, execution, and delivery of excise tax revenue refunding obligations evidencing all the interests of the owner thereof in a Purchase Agreement from the City; approving the form and authorizing the execution and delivery of such Purchase Agreement and other necessary agreements for such sale; delegating authority to determine certain matters and terms with respect to the foregoing; and declaring an emergency. 
- b. AB 2571 **Discussion/possible direction** regarding issues surrounding the COVID-19 pandemic and the City's response. 
- c. **Reports/discussion** regarding Council assignments.
- d. **Discussion/possible action** regarding future meeting/agenda items.

9. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).

10. ADJOURNMENT

Posted: 07/22/2021

By: DJ

Susan L. Irvine, CMC
City Clerk

Note: Pursuant to A.R.S. § 38-431.02 notice is hereby given to the members of the City Council and to the general public that the Council will hold the above open meeting. Members of the City Council will attend either in person or by telephone, video, or internet communications. The Council may vote to go into executive session on any agenda item, pursuant to A.R.S. § 38-431.03(A)(3) and (4) for discussion and consultation for legal advice with the City Attorney. Because various other commissions, committees and/or boards may speak at Council meetings, notice is also given that four or more members of these other City commissions, boards, or committees may be in attendance.

A copy of the packet with materials relating to the agenda items is typically available for review by the public in the Clerk's office after 1:00 p.m. the Thursday prior to the Council meeting and on the City's website at www.SedonaAZ.gov. The Council Chambers is accessible to people with disabilities, in compliance with the Federal 504 and ADA laws. Those with needs for special typeface print, may request these at the Clerk's Office. All requests should be made **forty-eight hours** prior to the meeting.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.

**Action Minutes
Special City Council Meeting
Vultee Conference Room, Sedona City Hall,
106 Roadrunner Drive, Sedona, Arizona
Tuesday, July 13, 2021, 2:30 p.m.**

1. Call to Order

Mayor Moriarty called the meeting to order at 2:30 p.m.

2. Roll Call

Council Present: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff in attendance: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Attorney Kurt Christianson, City Clerk Susan Irvine.

3. Special Business

Motion: Councilor Williamson moved to enter into Executive Session at 2:31 p.m. Seconded by Councilor Kinsella. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, and Williamson) and zero (0) opposed.

- a. **Discussion and consultation to consider its position and instruct its attorneys and designated representatives regarding contract negotiation and negotiations for the purchase, sale or lease of real property that are related to affordable housing. This matter is brought in executive session pursuant to A.R.S. § 38-431.03(A)(4) & (7).**

Reconvened in open session at 3:08 p.m.

- b. **Return to open session. Discussion/possible action regarding executive session items.**

No action taken.

4. Adjournment

Mayor Moriarty adjourned the meeting at 3:08 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on July 13, 2021.

Susan L. Irvine, CMC, City Clerk

Date

**Action Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, July 13, 2021, 4:30 p.m.**

1. Call to Order/Pledge of Allegiance/Moment of Silence/Roll Call

Mayor Moriarty called the meeting to order at 4:30 p.m.

Council Present: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff Present: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Attorney Kurt Christianson, Assistant to the City Manager Megan McRae, Communications Manager Lauren Browne, Chief of Police Charles Husted, Deputy Chief of Police Stephanie Foley, Lieutenant Lucas Wilcoxson, Sergeant Michael Dominguez, Sergeant Laura Leon, Sergeant Casey Pelletier, Detective Brandon Bergstad, Officer Jonathan Reed, K-9 Max, PD Executive Assistant Sherri O'Connor, PD Records Clerk II Jamie Rivero, PD Communications Specialist Tari Tasa, Director of Financial Services Cherie Wright, City Clerk Susan Irvine.

2. City's Vision/Moment of Art

The City's Vision was read by Councilor Thompson.

Nancy Lattanzi introduced digital artist and photographer, Robert Albrecht. Mr. Albrecht created a painting of Sedona Police K-9 Max which he is generously donating to the City. Mr. Albrecht spoke about his work, and he, Chief Husted, K-9 Handler Officer Jonathan Reed, and K-9 Max unveiled the painting.

3. Consent Items

- a. **Minutes - June 22, 2021 City Council Regular Meeting.**
- b. **Minutes - June 23, 2021 City Council Special Meeting.**
- c. **AB 2700 Approval of a property lease agreement with the Sedona-Oak Creek Unified School District for the property located at 221 Brewer Road in the City of Sedona, Coconino County.**
- d. **AB 2698 Approval of the Small Grant Review Committee recommendations for Fiscal Year 2022 Small Grants Program in the approximate amount of \$270,256.**

Item 3c was pulled at the request of Councilor Kinsella and a member of the public, April Payne.

Motion: Councilor Williamson moved to approve consent items 3a, 3b, and 3d. Seconded by Councilor Ploog. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

Pulled Consent Item – 3c. AB 2700 Approval of a property lease agreement with the Sedona-Oak Creek Unified School District for the property located at 221 Brewer Road in the City of Sedona, Coconino County.

Councilor Kinsella stated for the record that the City did not become involved in discussions surrounding leasing this property until after the School District chose to not renew the lease with Running River School.

Opened to the public at 4:45 p.m.

The following spoke regarding this matter: April Payne, Sedona.

Brought back to Council at 4:48 p.m.

Motion: Councilor Williamson moved to approve pulled consent item 3c. Seconded by Councilor Ploog. Further discussion by Council. **Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.**

4. Appointments – None.

5. Summary of Current Events by Mayor/Councilors/City Manager

Councilor Kinsella advised that the Sedona Community Center is resuming in-person lunch service beginning July 19th on Mondays, Wednesdays, and Fridays with reservations required 24 hours in advance. Lunch service 5 days a week is slated to begin on August 2nd. Vice Mayor Jablow stated that the Sedona School District will host a Wildcat Kids Club for 30 students, kindergarten through 5th grade, before and after school this school year. The program is being funded by a \$100,000 donation and will be free to participants the first year. The Parks & Recreation Department has resumed open gym at West Sedona School on Tuesdays and Thursdays from 7:00-9:00 p.m.; Dance in the Park in conjunction with the Sedona Public Library will take place on July 16th from 6:45-7:30 p.m.; the final session of swim lessons is underway; Yappy Hour is at Posse Grounds Park on Thursdays at 8:00 a.m.; and tennis lessons are offered on Mondays and Wednesdays at Posse Grounds Park. Councilor Ploog stated that she, the Mayor, Councilor Thompson, and Joanne Keene attended a ribbon cutting for the rebranding of the Verde Lynx to the Verde Shuttle in Cottonwood yesterday, and they were able to ride the new buses. Fares are \$2 each-way between Cottonwood and Sedona and \$1 within Sedona and are discounted by 50% for senior citizens and veterans.

6. Public Forum – None.

7. Proclamations, Recognitions, and Awards

a. Recognition of promotion of Lieutenant Stephanie Foley to Deputy Chief of Police.

Presentation by Chief Husted who recognized Deputy Chief of Police Stephanie Foley who was recently promoted from Lieutenant to this new position. Mayor Moriarty congratulated Deputy Chief Foley on her promotion, and Councilor Williamson commended the Police Department for recognizing hard work and talent and promoting from within.

8. Regular Business

a. AB 2703 Public hearing/discussion/possible action regarding approval of the Tentative City Budget for Fiscal Year 2021-2022.

Presentation by Cherie Wright.

Questions and comments from Council. Councilor Thompson stated for the record that he would like to see a strong budget for strategic land acquisition and would like the amount reinstated to \$4 million from \$1.9 million.

Opened the public hearing at 5:42 p.m.

The following spoke regarding this item: Anthony Priore, Sedona.

Closed the public hearing and brought back to Council at 5:44 p.m.

Additional comments from Council.

Motion: Councilor Thompson moved to approve the Tentative Budget for FY 2021-22 and thereby set the expenditure limit for the budget at \$71,692,843. Seconded by Councilor Williamson. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

Break at 5:50 p.m. Reconvened at 6:08 p.m.

b. AB 2699 Discussion/possible action regarding a Resolution authorizing the City of Sedona to enter into a development agreement with Sunset Lofts, LLC for the development of a multi-family workforce apartment complex at 220 Sunset Drive in Sedona with a City financial contribution not to exceed \$4.2 million.

Presentation by Karen Osburn, Kurt Christianson, and Keith Holben President of MK Company, developer of the Sunset Lofts project.

Questions and comments from Council.

Motion: Councilor Williamson moved to approve Resolution 2021-14 authorizing the City of Sedona to enter into a Development Agreement with Sedona Lofts, LLC for the development of an affordable workforce apartment complex including a City contribution not to exceed \$4.2 million, subject to approval by the City Attorney. Seconded by Vice Mayor Jablow. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

c. AB 2705 Discussion/possible direction regarding the statewide Congressional and Legislative redistricting process and alternatives.

Presentation by Joanne Keene.

Questions and comments from Council.

Motion: Councilor Ploog moved to approve the proposed redistricting values statement to be submitted to the Independent Redistricting Commission for the July 27th public hearing. Seconded by Councilor Kinsella. Vote: Motion carried unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

- d. **AB 2646 Discussion/possible direction/action regarding proposed State legislation and State budget and its potential impact on the City of Sedona.**

Presentation by Kurt Christianson.

Questions and comments from Council.

Presentation and discussion only. No action taken.

- e. **AB 2571 Discussion/possible direction regarding issues surrounding the COVID-19 pandemic and the City's response.**

Presentation by Karen Osburn and Mayor Moriarty.

Questions and comments from Council.

Presentation and discussion only. No action taken.

- f. **Reports/discussion regarding Council assignments – None.**

- g. **Discussion/possible action regarding future meeting/agenda items.**

Mayor Moriarty advised that there is a work session tomorrow at 3:00 p.m.

9. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. **To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. **Return to open session. Discussion/possible action on executive session items.**

No Executive Session was held.

10. Adjournment

Mayor Moriarty adjourned the meeting at 7:36 p.m. without objection.

I certify that the above are the true and correct actions of the Regular City Council Meeting held on July 13, 2021.

Susan L. Irvine, CMC, City Clerk

Date

**Action Minutes
Special City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Wednesday, July 14, 2021, 3:00 p.m.**

1. Call to Order/Pledge of Allegiance/Moment of Silence

Mayor Moriarty called the meeting to order at 3:00 p.m.

2. Roll Call

Council Present: Mayor Sandy Moriarty, Vice Mayor Scott Jablow, Councilor Kathy Kinsella, Councilor Tom Lamkin, Councilor Holli Ploog, Councilor Jon Thompson, Councilor Jessica Williamson.

Staff Present: City Manager Karen Osburn, Deputy City Manager Joanne Keene, City Attorney Kurt Christianson, Sustainability Coordinator McKenzie Jones, Economic Development Director Molly Spangler, AmeriCorps Sustainability Specialist Gabe Desmond, Deputy City Clerk Cherise Fullbright.

3. Special Business

a. AB 2598 Discussion/possible action regarding approval of a Resolution adopting the Sedona Climate Action Plan.

Presentation by McKenzie Jones, Karen Osburn, and Kurt Christianson.

Questions and comments from Council.

Opened to the public at 4:16 p.m.

The following spoke regarding this item: Peggy Chaikin, Sedona, Bonnie Lane, Cottonwood.

Brought back to Council at 4:21 p.m.

Additional questions and comments from Council.

By majority consensus, Council agreed that the following changes should be made to the Climate Action Plan:

- Remove the heading “Key Performance Indicators (KPIs)” from the table on page 15.
- Remove the word Appendix from the Implementation Matrix.
- Under the Global Benefits section on page 12, add the phrase “*with a global reputation and influence*” after *small, rural community* to the last sentence.

And the following changes should be made to the Resolution:

- Add “*the dangers of*” after include and remove “*by the year 2050*” from paragraph 1.
- Add “*recognizes its responsibility for helping mitigate the effects of climate change and*” after *City of Sedona* to paragraph 4.
- Replace “*hereby encourages the use of*” with “*will use*” in Section 3.

Motion: Councilor Thompson moved to approve Resolution 2021-15 adopting the Sedona Climate Action Plan. Seconded by Councilor Ploog. Vote: Motion carried

unanimously with seven (7) in favor (Moriarty, Jablow, Kinsella, Lamkin, Ploog, Thompson, Williamson) and zero (0) opposed.

b. Discussion/possible action regarding future meetings/agenda items.

Mayor Moriarty stated that the quarterly ADOT Board Meeting is taking place Friday at 9:00 a.m. in Council Chambers. Councilor Lamkin requested that the process for a member of the public to pull an item from the consent agenda be discussed at a future meeting. The request was seconded by Councilor Williamson.

4. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. Return to open session. Discussion/possible action on executive session items.**

No Executive Session was held.

5. Adjournment

Mayor Moriarty adjourned the meeting at 5:15 p.m. without objection.

I certify that the above are the true and correct actions of the Special City Council Meeting held on July 14, 2021.

Cherise Fullbright, Deputy City Clerk

Date



**CITY COUNCIL
AGENDA BILL**

**AB 2704
July 27, 2021
Consent Items**

Agenda Item: 3d
Proposed Action & Subject: Approval of a recommendation regarding a Liquor License Agent Change/Acquisition of Control application for the Series 10 Beer & Wine Store Liquor License for Speedway #2881, 2960 W SR 89A, Sedona, AZ (File #152695).

Department	City Clerk
Time to Present	N/A
Total Time for Item	
Other Council Meetings	N/A
Exhibits	Liquor License Application is available for review in the City Clerk's office.

City Attorney Approval	Reviewed 7-19-21 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	Recommend approval of the Liquor License Agent Change/Acquisition of Control application for the Series 10 Beer & Wine Store Liquor License for Speedway #2881.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: State liquor laws require Sedona's City Council to forward a recommendation for approval or denial of applications for liquor licenses.

Andrea Dahlman Lewkowitz has submitted a Liquor License application for an acquisition of control for the Series 10 Beer & Wine Store Liquor License for Speedway #2881, 2960 W SR 89A, Sedona, AZ (File #152695). This is required by Arizona Department of Liquor Licenses and Control if a person, other than those persons originally licensed, acquires control over a license or licensee. The responsible person is required to file this notice within thirty business days after the acquisition of control and include a list of officers, directors, or other controlling persons. Speedway #2881 has restructured and, as a result, has to follow up with an Acquisition of Control.

On receipt of notice of an acquisition of control, the State forwards the notice to the local governing body. The local governing body may protest the acquisition of control within sixty days based on the capability, reliability, and qualification of the person(s) acquiring control.

If the Director of the Arizona Department of Liquor Licenses and Control does not receive any protests, the Director may protest the acquisition of control or approve the acquisition of control based on the capability, reliability, and qualification of the person(s) acquiring control. Any protest shall be set for a hearing before the State hearing board. Any transfer shall be approved or disapproved within one hundred five days of the filing of the notice of acquisition of control. The person(s) who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to Section 4 202 and this section with respect to capability, reliability, and qualification.

Community Development, Finance, the Sedona Police Department, and Sedona Fire District have conducted a review of the application and did not note any objections regarding its approval.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Recommend denial of the Liquor License Agent Change/Acquisition of Control application for the Series 10 Beer & Wine Store Liquor License for Speedway #28812960 W SR 89A, Sedona, AZ (File #152695). Reasons for a recommendation of denial would need to be specified.

MOTION

I move to: recommend approval of the Liquor License Agent Change/Acquisition of Control application for the Series 10 Beer & Wine Store Liquor License for Speedway #2881, 2960 W SR 89A, Sedona, AZ (File #152695).



**CITY COUNCIL
AGENDA BILL**

**AB 2707
July 27, 2021
Consent Items**

Agenda Item: 3e

Proposed Action & Subject: Approval of a Resolution authorizing the execution of an Intergovernmental Agreement (IGA) between the City of Sedona and the Yavapai County Flood Control District (YCFCD) contributing \$300,000 in drainage funds to be used for the Stormwater Master Plan Update (Phase 3) and design of the Back O' Beyond Crossing Drainage Improvements Project.

Department Public Works

Time to Present N/A

Total Time for Item

Other Council Meetings October 27, 2020, June 22, 2021

Exhibits:
A. Proposed IGA
B. Proposed Resolution authorizing the new IGA
C. Map for the project area

City Attorney Approval	Reviewed 7-19-21 KWC	Expenditure Required	
		\$	0
City Manager's Recommendation	Authorize the execution of an Intergovernmental Agreement between the City of Sedona and the Yavapai County Flood Control District contributing \$300,000 in drainage funds to be used for stormwater projects.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

A portion of tax money collected by the Yavapai County Flood Control District (YCFCD) and allocated for flood control is contributed to the City for flood control related projects. The City successfully leverages County flood control funds to complete flood control improvement projects. During FY 2021-2022, the County funds will be used toward Phase 3 of the Stormwater Master Plan Update and design of the Back O' Beyond Crossing Drainage Improvements Project.

Background: Since the mid 1990's, the YCFCD has provided the City funds for flood control studies and projects located in the Yavapai County portion of the City on an annual basis, as requested.

Consideration:

- The amount of funding contributed by the YCFCD is based on specific drainage projects requested for funding by the City. Yavapai County distributes funding at the discretion of the County Board of Supervisors. The YCFCD keeps a portion of the taxes collected for floodplain management activities, overhead, general county-wide studies, District projects, etc.
- For the City to accept the funds and agree to the terms and conditions for their use, an Intergovernmental Agreement (IGA) is needed.
- The IGA details each party's responsibilities related to the use of the funding, including the amount of the funding, fiscal year restrictions for its use, and the necessity for projects to be located within Yavapai County for flood mitigation meeting FEMA regulations.
- The Resolution and IGA for City Council consideration provides the mechanism for the City to be reimbursed \$300,000 by the YCFCD for Phase 3 of the Stormwater Master Plan Update and design of the Back O' Beyond Crossing Drainage Improvements Project.

FY 2021-2022 Projects:

- Phase 3 of the Stormwater Master Plan Update will be the final phase of this project. It will include updating our city's local floodplain delineations/maps and public outreach based on those findings. The city currently uses floodplain maps from a study that was performed by the Soil Conservation Service in 1994. Given the construction of multiple large storm drainage projects and development projects that have taken place over the past 27 years, this final phase of the Master Plan is important. \$200,000 of the YCFCD will be used for this project which will cover the full cost.
- In addition, we will be designing drainage improvements for the low water crossing of Back O' Beyond Road in the location shown on the Site Map in Exhibit C. This project will develop a design and costs to improve public road ingress and egress for the Cathedral Rock Trailhead parking area and some private residential parcels. During large monsoon storms, this area is routinely isolated. From a public safety standpoint, trailhead parking area ingress and egress is important. \$100,000 of the YCFCD will be used for this project. The other \$45,250 will be funded with City capital reserves.

The Yavapai County Board of Supervisors is scheduled to approve this IGA at their August 4, 2021 meeting. The YCFCD has requested that the IGA be approved by Sedona City Council and that three signed copies of the IGA be forwarded to them before their meeting.

Community Plan Compliant: Yes - No - Not Applicable

Chapter 5 of the Community Plan addresses the Environment. One of the five major goals of this chapter is to reduce the impacts of flooding and erosion on the community and environment. Key issues cited here include addressing the negative impacts of flooding which has resulted in property damage and other impacts, including negative impacts on habitat and the water quality of Oak Creek. Page 76 of the Community Plan provides a dedicated discussion of the importance of stormwater management and the prioritization of drainage improvements.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): If the funds are not received, it will be necessary to use additional General Fund monies for these projects.

MOTION

I move to: approve Resolution No. 2021-__authorizing the execution of an Intergovernmental Agreement between the City of Sedona and the Yavapai County Flood Control District contributing \$300,000 in drainage funds to be used for the Stormwater Master Plan Update (Phase 3) and design of the Back O' Beyond Crossing Drainage Improvements Project.

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE YAVAPAI COUNTY FLOOD CONTROL DISTRICT AND THE CITY OF SEDONA
FOR THE FISCAL YEAR 2021-2022 FINANCIAL CONTRIBUTION
FROM THE DISTRICT TO THE CITY FOR FLOOD CONTROL
IMPROVEMENTS

THIS INTERGOVERNMENTAL AGREEMENT BETWEEN THE YAVAPAI COUNTY FLOOD CONTROL DISTRICT AND THE CITY OF SEDONA FOR THE FISCAL YEAR 2021-2022 FINANCIAL CONTRIBUTION TO THE CITY FOR FLOOD CONTROL IMPROVEMENTS (the “Agreement”) is entered into, effective this 4th day of August, 2021, between the Yavapai County Flood Control District, a political subdivision of the State of Arizona (the “DISTRICT”), and the City of Sedona, Arizona, a municipal corporation of the State of Arizona (the “CITY”). The District and the City are sometimes collectively referred to as the “Parties” or individually as a “Party.”

RECITALS

WHEREAS:

- A. The DISTRICT is a special taxing district legally created in the State of Arizona and organized by Yavapai County to include and govern its jurisdiction.
- B. The DISTRICT administers the Federal Emergency Management Agency (“FEMA”) Regulations under the National Flood Insurance Program.
- C. The Yavapai County Board of Supervisors is the Board of Directors of the DISTRICT.
- D. A portion of the CITY lies within the legal boundaries of the DISTRICT.
- E. The DISTRICT, the CITY, and Yavapai County (“County”) are separate and distinct political subdivisions, but each can provide for the benefit of the other(s), for the benefit of public health, safety, and welfare, and other public purposes.
- F. The DISTRICT and the CITY have authority to enter into Intergovernmental Agreements pursuant to Arizona Revised Statutes (“A.R.S.”) §§11-952, 48-3603, and 9-240, and CITY’s Code.
- G. Among other things, the DISTRICT receives tax proceeds as general funding for the planning, construction, and maintenance of flood control improvements.
- H. Under the budgeting process for the DISTRICT, a category of “Contributions” (hereinafter

“Funds”) has been established, setting aside monies that may be utilized by the various political subdivisions located within the boundaries of Yavapai County.

- I. The DISTRICT has approved and budgeted Funds to provide funding assistance for flood mitigation work and is authorized to expend such Funds for flood control project (including storm water control) to political subdivisions for project so long as the project are flood or drainage related, cost-effective, a benefit to the County, the DISTRICT, and the political subdivision and are in accordance with FEMA regulations.
- J. The CITY has experienced storm water control and flooding problems for a number of years in various locations and seeks to mitigate such problems to increase safety and protect public and private property and persons within the CITY.
- K. The CITY seeks to improve its storm water control, make drainage improvements, and/or mitigate flooding problems with Phase 3 of the Stormwater Master Plan Update and with the design of a drainage crossing on Back O’ Beyond Road (hereinafter the “Project”).
- L. The CITY desires to receive DISTRICT Funds for the 2021-2022 fiscal year to be used for its Project.
- M. The DISTRICT has budgeted Funds to support the Project in an amount not to exceed Three Hundred Thousand Dollars (\$300,000) for fiscal year 2021-2022 which begins on July 1, 2021.

AGREEMENTS

NOW THEREFORE, for good and valuable consideration, including consideration of the mutual promises, terms, and conditions hereinafter set forth, including the mutual promises and obligations to be performed by the Parties hereto, IT IS AGREED BETWEEN THE CITY AND THE DISTRICT AS FOLLOWS:

I. PURPOSE

The purpose of this Agreement is to authorize the DISTRICT to pay and contribute to the CITY Funds in support of the CITY’s Project. Such funding for fiscal year 2020-2021 shall not exceed Three Hundred Thousand Dollars (\$300,000).

II. COMMENCEMENT, DURATION, AND TERMINATION

The effective date is as set forth on page one (1) of this Agreement. Performance under this Agreement shall commence following the effective date and shall terminate upon the earliest of:

- A. The completion of the Project as determined by the CITY;
- B. The exhaustion of the Funds allocated to the CITY for the Project;
- C. June 30, 2022; or
- D. The mutual agreement of the Parties.

If this Agreement terminates for any reason, any unused portion of the Funds shall not be available to the CITY without further agreement of the Parties.

III. RESPONSIBILITIES OF PARTIES

A. The CITY shall:

1. Be solely responsible for the design, engineering, bidding, right-of-way acquisition, supervision, construction, inspection, administration, and project management of the Project and for contracting directly for all Project work.
2. If plans are used to bid, provide the DISTRICT a copy of the final Project plans.
3. Use the Funds for the Project in fiscal year 2021-2022.
4. Use the Funds exclusively for costs associated with the Project described above.
5. When requesting Funds from the DISTRICT, provide detailed invoices with supporting documentation for the request(s).
6. Request Funds from the DISTRICT on or before July 31, 2022 (for work completed in fiscal year 2021-2022).
7. Be responsible for the proper disbursement of the Funds provided by the DISTRICT.
8. Be responsible for maintaining the Project and the resulting improvements.

B. The DISTRICT shall:

1. Make Funds available to the CITY for the Project as approved by the Board of Directors.
2. Provide funding as available and appropriate upon proper request(s) by the CITY.
3. Pay properly invoiced requests monthly or on an alternate schedule as agreed to by the CITY and DISTRICT.
4. Pay properly invoiced requests for work completed by the CITY in fiscal year 2021-2022 so long as CITY's requests are received by the DISTRICT on or before July 31, 2022.

C. The DISTRICT and CITY mutually agree:

1. That they recognize the Funds to be used by Parties pursuant to this Agreement are tax funds. The agreements herein for funding are based upon projected tax funds to be received. In the event the projected income is not received, there is the possibility that some or all of the Funds anticipated by this Agreement and set forth herein will not be available. All monetary obligations under this agreement shall be subject to annual budget approval of the respective governing bodies of the parties. A failure of either party's governing body to approve funding for payment of any obligation hereunder shall constitute grounds for termination of this agreement.
2. The Project is the sole responsibility of the CITY, and not of the DISTRICT or the County. All real property upon which the Project work will occur is within the CITY limits and not owned or under the control of the DISTRICT or County.

VII. INDEMNIFICATION

To the fullest extent permitted by law, the CITY agrees to defend, indemnify, and hold harmless the DISTRICT, its Board of Directors, officers, employees, agents, or other representatives, the County, its Board of Supervisors, officers, employees, agents, or other representatives from any and all claims for damages or otherwise arising under this Agreement and from any negligent acts of the City, its officers, employees, agents, or other representatives. This Indemnification provision shall survive the termination of this Agreement.

VIII. OTHER PROVISIONS

- A. NOTICE. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by certified mail, return receipt requested, addressed as follows:

CITY OF SEDONA
City Manager
102 Roadrunner Drive
Sedona, AZ 86336

DISTRICT
Yavapai County Flood Control District Director
1120 Commerce Drive
Prescott, AZ 86305

- B. ENTIRE AGREEMENT. This Agreement represents the entire understanding between the parties with respect to the subject matters herein, and may be amended, modified, or waived only by written instrument signed by both Parties.
- C. CONFLICT OF INTEREST. This contract is subject to the cancellation provisions of A.R.S. §38-511.
- D. SEVERABILITY. In case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.
- E. NON-DISCRIMINATION. The Parties shall comply with Executive Order 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules and regulations, including the Americans with Disabilities Act. The Parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
- F. EMPLOYMENT VERIFICATION. Both parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to their employment of their employees, and with the requirements of A.R.S. §§ 23-214 and 41-4401 (together the "State and Federal Immigration Laws"). A breach of the foregoing warranty shall be deemed a material breach of this Agreement, and the parties shall have the right to terminate this Agreement for such a breach, in addition to any other applicable remedies. The parties retain the legal right to inspect the papers of each contractor or

subcontractor employee of either who performs work pursuant to this Agreement to verify performance of the foregoing warranty of compliance with the State and Federal Immigration Laws.

G. LAWS. The Parties shall each be fully responsible for compliance with all statutes ordinances, codes, regulations, rules, court decrees, or other laws (hereinafter "Laws") applicable to it as part of fully performing the Project with regards to their respective roles. This Agreement shall not relieve either Party of any obligation or responsibility imposed upon it by Laws.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year specified below.

YAVAPAI COUNTY
FLOOD CONTROL DISTRICT

CITY OF SEDONA

Craig L. Brown, Chairman Date
Board of Directors
Yavapai County Flood Control District

Sandra J. Moriarty, Mayor Date
City of Sedona

ATTEST:

Kim Kapin Date
Clerk of the Board of Directors

Susan L. Irvine Date
Sedona City Clerk

RESOLUTION NO. 2021 - ____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY FLOOD CONTROL DISTRICT FOR DISTRICT FUNDING OF THE STORMWATER MASTER PLAN UPDATE (PHASE 3) AND DESIGN OF THE BACK O' BEYOND CROSSING DRAINAGE IMPROVEMENTS PROJECTS.

WHEREAS, the City of Sedona ("City") and the Yavapai County Flood Control District ("District") have reached an intergovernmental agreement concerning the distribution of a portion of *ad valorem* taxes paid by City residents for flood control projects, including storm water control; and

WHEREAS, the District is authorized to expend funds for flood control projects pursuant to A.R.S. § 48-3603(C)(7) and reimburse municipalities for such work, and has approved and budgeted such funds for the City in the approximate amount of \$300,000 for fiscal year 2021-2022, to be used by the City to fund the following projects: Stormwater Master Plan Update (Phase 3) and design of the Back O' Beyond Crossing Drainage Improvements, all within the Yavapai County portion of the City; and

WHEREAS, the City is authorized by A.R.S. § 9-240(B)(5) to perform this work, and the District may enter into an appropriate intergovernmental agreement under ARS § 48-3603(C)(9); and

WHEREAS, the City has reviewed the terms of the intergovernmental agreement and determined that it is in the proper form required by A.R.S. § 11-952;

BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA THAT:

The City of Sedona, through its Mayor and Council, hereby approves the Intergovernmental Agreement with the Yavapai County Flood Control District for the District to provide the City funds in the approximate amount of three hundred thousand dollars (\$300,000) for the Stormwater Master Plan Update (Phase 3) and design of the Back O' Beyond Crossing Drainage Improvements projects, and that the Mayor is authorized to execute said Agreement on behalf of the City.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 27th day of July, 2021.

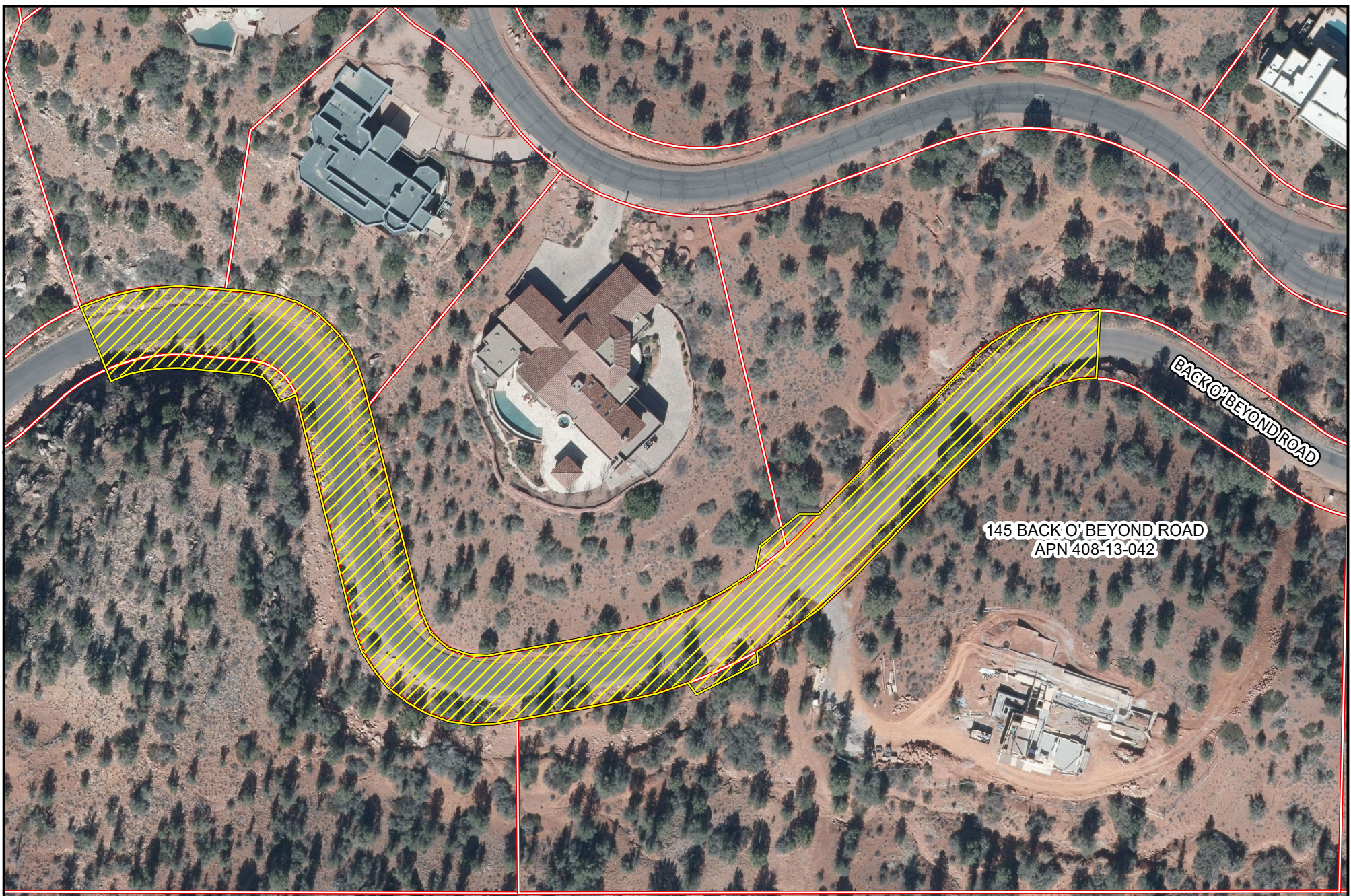
Sandra J. Moriarty, Mayor

ATTEST:

APPROVED AS TO FORM:

Susan L. Irvine, CMC, City Clerk

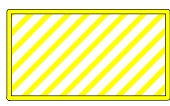
Kurt W. Christianson, City Attorney



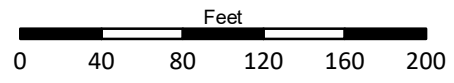
**PROJECT LOCATION MAP:
BACK O' BEYOND ROAD
DRAINAGE IMPROVEMENTS**



Parcels



Work Area



This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages rising from the data contained on this map.



**CITY COUNCIL
AGENDA BILL**

**AB 2711
July 27, 2021
Consent Items**

Agenda Item: 3f

Proposed Action & Subject: Approval of a Resolution amending an Intergovernmental Agreement between the City of Sedona and the Arizona Department of Transportation for the Sanborn Drive–Thunder Mountain Road Overlay Project.

Department	Public Works
Time to Present	N/A
Total Time for Item	
Other Council Meetings	September 8, 2020
Exhibits	A. Resolution B. IGA

City Attorney Approval	Reviewed 7-19-21 KWC	Expenditure Required	
		\$	0 – No increase to project budget. Only reallocation of funding.
City Manager's Recommendation	Authorize the IGA amendment for the Sanborn Drive - Thunder Mountain Road Overlay Project.	Amount Budgeted	
		\$	0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Staff is requesting approval of a Resolution amending an Intergovernmental Agreement (IGA) with the Arizona Department of Transportation (ADOT). This amendment is to add additional funding to the project because of a surplus of FY21 funds in the Transportation Investment Plan (TIP) for the Northern Arizona Council of Governments (NACOG).

Background: When the Highway User Revenue Fund Exchange (HURF-X) program was reinstated by ADOT, the City indicated their desire to participate in that program for this project. Under the HURF-X program, municipalities can exchange federal aid with ADOT and receive 90% of the amount exchanged in State Highway Funds to program on the project. State Highway Funds have far fewer restrictions and requirements resulting in a less expensive project which is completed more quickly. An IGA formalizing the HURF-X funding was approved through Resolution 2020-14 on September 8, 2020.

Construction for the project was combined with the Thunder Mountain–Sanborn Shared Use Path and Drainage Improvements Project. The construction contract for that project was

approved by Council on September 22, 2020. That contract originally utilized \$353,454 of HURF-X funding consistent with the IGA approved on September 8, 2020. Staff is now requesting approval of an IGA Amendment that will increase the amount of HURF-X funding available to the City for this project. NACOG had a surplus of TIP funds available in FY21 and needed to allocate those funds to a project that was already underway. The IGA amendment will increase the amount of HURF-X funding by \$160,086, for a total contribution of \$513,540.

Community Plan Consistent: Yes - No - Not Applicable

Chapter 4 of the Community Plan addresses Circulation. One of the six major goals of this chapter is to provide for safe and smooth flow of traffic, which can help be accomplished through road rehabilitation.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Not approving the IGA would result in the City losing its opportunity to utilize the additional amount of HURF-X funding that is programmed in the NACOG TIP.

MOTION

I move to: approve Resolution No. 2021-__ authorizing the execution of an amendment to the Intergovernmental Agreement between the City of Sedona and the Arizona Department of Transportation for the Sanborn Drive - Thunder Mountain Road Overlay Project.

RESOLUTION NO. 2021-__

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING AMENDMENT NO. ONE TO THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE SANBORN DRIVE – THUNDER MOUNTAIN ROAD OVERLAY PROJECT; PROVIDING AUTHORIZATION FOR THE MAYOR TO EXECUTE SAID AGREEMENT.

WHEREAS, the City of Sedona (“City”) and the State of Arizona, acting by and through its Department of Transportation (“ADOT”), have prepared Amendment No. One to the Intergovernmental Agreement (IGA) for the Sanborn Drive – Thunder Mountain Road Overlay Project; and

WHEREAS, the City and ADOT are mutually agreeable to amending the existing IGA and the City desires to utilize additional HURF Exchange funding for new asphaltic concrete overlay, curb and gutter, shared use path, and associated drainage improvements on the south side of the roadway along Sanborn Drive and Thunder Mountain Road between Sunshine Lane and Rhapsody Road; and

WHEREAS, the City is empowered by A.R.S. § 48-572 to enter into an IGA and by this resolution has authorized the undersigned to execute the IGA amendment on behalf of the City; and

WHEREAS, the City has reviewed the terms of the IGA amendment and determined that it is in the proper form required by A.R.S. §§ 11-951 through 11-954.

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

The City of Sedona, through its Mayor and Council, hereby approves Amendment No. One to the Intergovernmental Agreement with the State of Arizona for the Sanborn Drive – Thunder Mountain Road Overlay Project, and the Mayor is authorized to execute said Agreement on behalf of the City.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 27th day of July, 2021.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

ADOT File No.: IGA 20-0007842-I
Amendment No. One: 21-0008210-I
AG Contract No.: P001 2020 001564
Project Location/Name: Sanborn Dr.-
Thunder Mt-Rhapsody Rd to Coffee Pot Dr.
Type of Work: Pavement Rehabilitation
Federal-aid No.: HURF-SED-0(202)T
ADOT Project No.: T008901C
TIP/STIP No.: SED17-003C
CFDA No.: 20.205 - Highway Planning and
Construction
Budget Source Item No.: HURF Exchange

**AMENDMENT NO. ONE
TO
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SEDONA

THIS AMENDMENT NO. ONE to INTERGOVERNMENTAL AGREEMENT (the “Amendment No. One”), is entered into this date _____, pursuant to Arizona Revised Statutes (“A.R.S.”) §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the “State” or “ADOT”) and the CITY OF SEDONA, acting by and through its MAYOR and CITY COUNCIL (the “City”). The State and the City are each individually referred to as a “Party” and are collectively referred to as the “Parties.”

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, IGA 20-0007842-I, A.G. Contract No. P001 2020 001564, was executed on September 11, 2020, (the “Original Agreement”);

WHEREAS, the State is empowered by A.R.S. § 28-401 to enter into this Amendment No. One and has delegated to the undersigned the authority to execute this Amendment No. One on behalf of the State;

WHEREAS, the City is empowered by A.R.S. § 48-572 to enter into this Amendment No. One and has authorized the undersigned to execute this Amendment No. One on behalf of the City; and

NOW THEREFORE, in consideration of the mutual terms expressed herein, the purpose of this Amendment No. One is to revise Project costs, Attachment One (HURF Exchange Project Scoping Form, HURF Exchange Project Cost Estimate, HURF Exchange Project and Draw Schedule, and HURF Exchange Draw and Final Reimbursement Invoice) is revised and replaced accordingly. The Parties desire to amend the Original Agreement, as follows:

The Parties incorporate the Recitals set forth above as part of the body of this Amendment No. One.

I. RECITALS

(NO CHANGES)

II. DEFINITIONS AND ACRONYMS

(NO CHANGES)

III. SCOPE OF WORK

1. The City has represented to the State that it will be able to complete the Project phases according to the Funding Transfer and Authorization Schedule table below.

Funding Transfer and Authorization Schedule Table				
Project Phase(s) Programmed in TIP Intended as HURF Exchange	Fiscal Year Programmed	STBGP Apportionments and OA Charged to COG/MPO*	HURF Exchange Funding Credited to COG/MPO	Deadline to Submit Authorization Request to ADOT
Design				
Right of Way				
Construction	2021	\$570,600.00	\$513,540.00	7/30/2021
Other:				
TOTAL		\$570,600.00	\$513,540.00	

*STBGP apportionments and obligation authority will be charged to the COG/MPO at 100% of this amount.

IV. MISCELLANEOUS PROVISIONS

(NO CHANGES)

EXCEPT AS AMENDED, ALL OTHER terms and conditions of the Original Agreement remain in full force and effect.

THIS AMENDMENT NO. ONE shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

IN ACCORDANCE WITH A.R.S. § 11-952 (D) attached and incorporated in this Amendment No. One is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Amendment No. One and that the Amendment No. One is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. One the day and year first above written.

CITY OF SEDONA

STATE OF ARIZONA
Department of Transportation

By _____
SANDY MORIARTY
Mayor

By _____
STEVE BOSCHEN, PE
Division Director

ATTEST:

By _____
SUSAN IRVINE
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF SEDONA

I have reviewed the above referenced Amendment No. One to the Original Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF SEDONA, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Amendment No. One to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Amendment No. One.

City Attorney

Date

ATTACHMENT ONE

HURF EXCHANGE PROJECT FORMS



**CITY COUNCIL
AGENDA BILL**

**AB 2713
July 27, 2021
Consent Items**

Agenda Item: 3g
Proposed Action & Subject: Approval of award of a Streets Maintenance Job Order Contract extension with Cactus Asphalt, Inc. and J. Banicki Construction, Inc.

Department	Public Works
Time to Present	N/A
Total Time for Item	
Other Council Meetings	April 27, 2021
Exhibits	A. Cactus Unit Prices B. Banicki Unit Prices

City Attorney Approval	Reviewed 7-19-21 KWC	Expenditure Required	
		\$	1,150,000
City Manager's Recommendation	Approve award of a Streets Maintenance Job Order Contract extension to Cactus Asphalt, Inc. and J. Banicki Construction, Inc.	Amount Budgeted	
		\$	1,150,000
		Account No. (Description)	11-5320-39-6770 HURF Streets Rehab/Preservation
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Staff is requesting approval of a Job Order Contract (JOC) extension with Cactus Asphalt, Inc. (Cactus), and J. Banicki Construction, Inc. (Banicki), for street maintenance projects. These projects will primarily include annually programmed pavement preservation and road rehabilitation but may also include general right-of-way maintenance and asset preservation such as crack fill and seal coating on roads that are currently in above average condition.

Background: Cactus and Banicki were selected through a qualifications and unit price proposal process and were awarded the initial JOC on April 27, 2021. The existing JOC is a one-year contract renewable for up to four additional one-year periods. This will be the first of a possible four extensions. While the original JOC was only approved a few months ago, that award was brought much later in the fiscal year than what would be a normal award cycle, closer to July 1. That award covered FY21 work. This extension will cover FY22. The maximum amount for each contract will be \$1M per year. Work will be divided between the two contractors based on performance and pricing. The option to extend the contract is exercised based on the contractors' successful performance and the needs of the City.

During FY21, Cactus completed FAST for portions of the Arroyo Pinon and Thunder Mountain Ranch subdivisions. Some streets within these subdivisions, as well as the subdivisions of Cedar Ridge, Doodlebug, Loma Topkie, and Mystic Hills were not completed due to the extreme temperatures that were encountered during the month of June. These streets will be completed in Fall 2021. Cactus also completed overlays of Doodlebug Road, Ranch House Circle, and the northernmost portion of Arroyo Pinon Drive.

During FY21, Banicki completed the removal and replacement of asphalt on Rodeo Road and Hozoni Drive. Hozoni was accelerated from FY22 to FY21 due to the inability to complete the scheduled FAST work.

FY22 work is expected to include finishing the remaining FAST areas from FY21, as well as FAST for the Crimson View, Northern Shadows, Red Rock Heights, Southwest Center, and Valley Shadows subdivisions. Overlays for Upper Red Rock Loop Road, Sombart Lane, and Kallof Place are also scheduled to occur.

The City has worked with Cactus for the past 6 years as they were awarded a JOC in 2015. Staff has been generally satisfied with their work. At times, there have been issues with their performance, but they have revised the way they manage individual projects to ensure there is a single point of contact that oversees all aspects of the work. While there is still room for improvement, this has resulted in better communication and results. Banicki has completed multiple successful projects for the City including the Uptown Paving Project, the Navoti–Calle Del Sol Intersection Project, and most recently the Sunset Drive Crossing Drainage Improvements. Staff was very pleased with their performance on Rodeo and Hozoni and their ability to accommodate the work on a very tight schedule. Staff is therefore requesting approval of an extension to the JOC for Cactus and Banicki.

Community Plan Consistent: Yes - No - Not Applicable

Chapter 4 of the Community Plan addresses Circulation. One of the six major goals of this chapter is to provide for safe and smooth flow of traffic, which can help be accomplished through pavement preservation and road rehabilitation.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

- 1) Re-advertise for JOC contractor selection.
- 2) Advertise the projects through public bid process and risk awarding to a less qualified contractor.

MOTION

I move to: approve award of a Streets Maintenance Job Order Contract extension to Cactus Asphalt, Inc. and J. Banicki Construction, Inc.

EXHIBIT A

City of Sedona Street Maintenance Projects

Item No.	Description	Unit	Unit Price
1	RESET MANHOLE FRAME AND LID	EA	\$575.00
2	RESET SEWER CLEANOUT	EA	\$445.00
3	RESET WATER VALVE FRAME AND LID	EA	\$445.00
4	AGGREGATE BASE COURSE (0-100 TON)	TON	\$55.00
4A	AGGREGATE BASE COURSE (100+ TON)	TON	\$28.00
5	AGGREGATE BASE COURSE (RECONDITION) (0-300 SY)	S.Y.	\$10.50
5A	AGGREGATE BASE COURSE (RECONDITION) (300+ SY)	S.Y.	\$1.40
6	SUBGRADE PREP (0-300 SY)	S.Y.	\$10.5
6A	SUBGRADE PREP (300+ SY)	S.Y.	\$1.50
7	RECONDITION SHOULDER (0-300 SY)	S.Y.	\$7.50
7A	RECONDITION SHOULDER (300+ SY)	S.Y.	\$1.40
8	PMM SEAL COAT (0-1,000 SY)	S.Y.	\$2.95
8A	PMM SEAL COAT (1,000-10,000 SY)	S.Y.	\$1.85
8B	PMM SEAL COAT (10,000-50,000 SY)	S.Y.	\$1.50
8C	PMM SEAL COAT (50,000+ SY)	S.Y.	\$1.50
9	CRACK SEAL ROADWAY (0-0.5" wide crack, minimum 5000 LF)	L.F.	\$0.30
9A	CRACK SEAL ROADWAY (0.5-1" wide crack, minimum 5000 LF)	L.F.	\$0.37
10	ASPHALTIC CONCRETE PAVEMENT MILLING (0 IN. TO 3 IN.) (0-4000 SY)	S.Y.	\$3.00
10A	ASPHALTIC CONCRETE PAVEMENT MILLING (0 IN. TO 3 IN.) (4000+ SY)	S.Y.	\$2.51
11	ASPHALTIC CONCRETE PAVEMENT (0 IN. TO 3 IN.) (0-100 TON)	TON	\$160.00
11A	ASPHALTIC CONCRETE PAVEMENT (0 IN. TO 3 IN.) (100+ TON)	TON	\$116.00
12	ASPHALTIC CONCRETE PAVEMENT (> 3 IN.) (0-100 TON)	TON	\$160.00
12A	ASPHALTIC CONCRETE PAVEMENT (> 3 IN.) (100+ TON)	TON	\$117.00
13	ASPHALTIC CONCRETE (PERMANENT PATCH)	TON	\$215.00
14	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "A" (0-100 LF)	L.F.	\$6.50
14A	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "A" (100+ LF)	L.F.	\$5.50
15	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "B" (0-100 LF)	L.F.	\$6.75
15A	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "B" (100+ LF)	L.F.	\$5.75
16	ASPHALTIC CONCRETE DRIVEWAY MAG DETAIL 205	TON	\$180.00
17	ASPHALTIC CONCRETE EDGE REPAIR (0-100 TON)	TON	\$250.00
17A	ASPHALTIC CONCRETE EDGE REPAIR (100+ TON)	TON	\$225.00
18	ASPHALTIC CONCRETE REMOVAL (2-4") (0-100 SY)	S.Y.	\$24.50
18A	ASPHALTIC CONCRETE REMOVAL (2-4") (100+ SY)	S.Y.	\$5.40
18B	ASPHALTIC CONCRETE REMOVAL (5-6") (0-100 SY)	S.Y.	\$30.00
18C	ASPHALTIC CONCRETE REMOVAL (5-6") (100+ SY)	S.Y.	\$8.00
19	SAW CUT ASPHALTIC CONCRETE PAVEMENT (2-4" depth) (0-100 LF)	L.F.	\$4.00
19A	SAW CUT ASPHALTIC CONCRETE PAVEMENT (2-4" depth) (100+ LF)	L.F.	\$1.50
19B	SAW CUT ASPHALTIC CONCRETE PAVEMENT (5-6" depth) (0-100 LF)	L.F.	\$6.00
19C	SAW CUT ASPHALTIC CONCRETE PAVEMENT (5-6" depth) (100+ LF)	L.F.	\$2.00
20	4" PAVEMENT MARKINGS (0-100 LF)	L.F.	\$2.25
20A	4" PAVEMENT MARKINGS (100+ LF)	L.F.	\$0.12
21	12" TURN LANE MARKINGS (0-100 LF)	L.F.	\$2.85
21A	12" TURN LANE MARKINGS (100+ LF)	L.F.	\$0.33
22	12" CROSSWALK MARKINGS (0-100 LF)	L.F.	\$4.00
22A	12" CROSSWALK MARKINGS (100+ LF)	L.F.	\$2.25
23	CONCRETE HANDICAP RAMP (0-3 EA)	EA	\$4,000.00
23A	CONCRETE HANDICAP RAMP (4+ EA)	EA	\$3,000.00
24	CONCRETE SIDEWALK (4 IN.) NEW (0-20 SY)	S.Y.	\$165.00
24A	CONCRETE SIDEWALK (4 IN.) NEW (20-200 SY)	S.Y.	\$60.00
24B	CONCRETE SIDEWALK (4 IN.) NEW (200+ SY)	S.Y.	\$55.00
25	CONCRETE SIDEWALK (6 IN.) (NEW W/ FIBER REINFORCEMENT) (0-20 SY)	S.Y.	\$170.00
25A	CONCRETE SIDEWALK (6 IN.) (NEW W/ FIBER REINFORCEMENT) (20-200 SY)	S.Y.	\$90.00
25B	CONCRETE SIDEWALK (6 IN.) (NEW W/ FIBER REINFORCEMENT) (200+ SY)	S.Y.	\$85.00

EXHIBIT A

City of Sedona Street Maintenance Projects

26	CONCRETE DRIVEWAY (6 IN.) (NEW W/ FIBER REINFORCEMENT) (0-20 SY)	S.Y.	\$175.00
26A	CONCRETE DRIVEWAY (6 IN.) (NEW W/ FIBER REINFORCEMENT) (20+ SY)	S.Y.	\$99.00
27	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (REPLACE) (0-20 LF)	L.F.	\$165.00
27A	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (REPLACE) (20-200 LF)	L.F.	\$48.00
27B	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (REPLACE) (200+ LF)	L.F.	\$40.00
28	CONCRETE CURB (MAG TYPE "B") (REPLACE) (0-20 LF)	L.F.	\$175.00
28A	CONCRETE CURB (MAG TYPE "B") (REPLACE) (20-200 LF)	L.F.	\$48.00
28B	CONCRETE CURB (MAG TYPE "B") (REPLACE) (200+ LF)	L.F.	\$40.00
29	CONCRETE CURB & GUTTER (MAG TYPE "C") (REPLACE) (0-20 LF)	L.F.	\$155.00
29A	CONCRETE CURB & GUTTER (MAG TYPE "C") (REPLACE) (20-200 LF)	L.F.	\$49.00
29B	CONCRETE CURB & GUTTER (MAG TYPE "C") (REPLACE) (200+ LF)	L.F.	\$40.00
30	CONCRETE SIDEWALK (4 IN.) (REPLACE) (0-20 SY)	S.Y.	\$190.00
30A	CONCRETE SIDEWALK (4 IN.) (REPLACE) (20-200 SY)	S.Y.	\$92.00
30B	CONCRETE SIDEWALK (4 IN.) (REPLACE) (200+ SY)	S.Y.	\$83.00
31	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (NEW) (0-20 LF)	L.F.	\$126.00
31A	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (NEW) (20-200 LF)	L.F.	\$38.00
31B	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (NEW) (200+ LF)	L.F.	\$32.00
32	CONCRETE CURB (MAG TYPE "B") (NEW) (0-20 LF)	L.F.	\$127.00
32A	CONCRETE CURB (MAG TYPE "B") (NEW) (20-200 LF)	L.F.	\$38.00
32B	CONCRETE CURB (MAG TYPE "B") (NEW) (200+ LF)	L.F.	\$33.00
33	CONCRETE CURB & GUTTER (MAG TYPE "C") (NEW) (0-20 LF)	L.F.	\$128.00
33A	CONCRETE CURB & GUTTER (MAG TYPE "C") (NEW) (20-200 LF)	L.F.	\$38.00
33B	CONCRETE CURB & GUTTER (MAG TYPE "C") (NEW) (200+ LF)	L.F.	\$32.00
34	SEDONA RED CONCRETE COLOR	C.Y.	\$74.00
35	TREE REMOVAL 12 IN. TO 24 IN. Dia	EA	\$1,000.00
36	STREET SWEEPING (Power broom)	HR	\$135.00
37	SIDEWALK SWEEPING (Manual)	CR. HR	\$80.00
38	SIDEWALK SWEEPING (Power broom)	CR. HR	\$100.00
39	ONE (1) SACK ABC SLURRY (0-10 CY)	C.Y.	\$245.00
39A	ONE (1) SACK ABC SLURRY (10+ CY)	C.Y.	\$155.00
40	CORE SAMPLING	EA	\$250.00
41	STORM WATER POLLUTION PREVENTION (percentage of overall work order)	%	2%
42	MOBILIZATION (percentage of overall work order)	%	10%
43	QUALITY CONTROL & TESTING (percentage of overall work order)	%	3%
44	CONSTRUCTION STAKING	HR	\$225.00
45	UTILITY POTHOLING	HR	\$375.00
46	TACK COAT (0-300 SY)	S.Y.	\$1.20
46A	TACK COAT (300+ SY)	S.Y.	\$0.45
47	ASPHALTIC CONCRETE PULVERIZING (2-4") (0-1000 SY)	S.Y.	\$5.25
47A	ASPHALTIC CONCRETE PULVERIZING (2-4") (1000+ SY)	S.Y.	\$3.25
47B	ASPHALTIC CONCRETE PULVERIZING (5-6") (0-1000 SY)	S.Y.	\$5.75
47C	ASPHALTIC CONCRETE PULVERIZING (5-6") (1000+ SY)	S.Y.	\$3.75
48	DUAL LAYER WEED BARRIER	S.Y.	\$10.00
49	LIQUID ROAD SEAL COAT (0-1,000 SY)	S.Y.	\$4.90
49A	LIQUID ROAD SEAL COAT (1,000-10,000 SY)	S.Y.	\$3.33
49B	LIQUID ROAD SEAL COAT (10,000-50,000 SY)	S.Y.	\$2.85
49C	LIQUID ROAD SEAL COAT (50,000+ SY)	S.Y.	\$2.72
50	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (0-1,000 SY)	S.Y.	\$20.00
50A	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (1,000-10,000 SY)	S.Y.	\$5.10
50B	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (10,000-50,000 SY)	S.Y.	\$4.33
50C	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (50,000+ SY)	S.Y.	\$4.20

J. Banicki Construction
City of Sedona Street Maintenance Projects

Item No.	Description	Unit	Unit Price
1	RESET MANHOLE FRAME AND LID	EA	800.00
2	RESET SEWER CLEANOUT	EA	660.00
3	RESET WATER VALVE FRAME AND LID	EA	660.00
4	AGGREGATE BASE COURSE (0-100 TON)	TON	62.00
4A	AGGREGATE BASE COURSE (100+ TON)	TON	48.00
5	AGGREGATE BASE COURSE (RECONDITION) (0-300 SY)	S.Y.	18.30
5A	AGGREGATE BASE COURSE (RECONDITION) (300+ SY)	S.Y.	7.00
6	SUBGRADE PREP (0-300 SY)	S.Y.	15.60
6A	SUBGRADE PREP (300+ SY)	S.Y.	7.00
7	RECONDITION SHOULDER (0-300 SY)	S.Y.	15.25
7A	RECONDITION SHOULDER (300+ SY)	S.Y.	7.00
8	PMM SEAL COAT (0-1,000 SY)	S.Y.	7.50
8A	PMM SEAL COAT (1,000-10,000 SY)	S.Y.	5.40
8B	PMM SEAL COAT (10,000-50,000 SY)	S.Y.	5.00
8C	PMM SEAL COAT (50,000+ SY)	S.Y.	4.70
9	CRACK SEAL ROADWAY (0-0.5" wide crack, minimum 5000 LF)	L.F.	10.55
9A	CRACK SEAL ROADWAY (0.5-1" wide crack, minimum 5000 LF)	L.F.	13.20
10	ASPHALTIC CONCRETE PAVEMENT MILLING (0 IN. TO 3 IN.) (0-4000 SY)	S.Y.	5.95
10A	ASPHALTIC CONCRETE PAVEMENT MILLING (0 IN. TO 3 IN.) (4000+ SY)	S.Y.	4.80
11	ASPHALTIC CONCRETE PAVEMENT (0 IN. TO 3 IN.) (0-100 TON)	TON	193.50
11A	ASPHALTIC CONCRETE PAVEMENT (0 IN. TO 3 IN.) (100+ TON)	TON	126.75
12	ASPHALTIC CONCRETE PAVEMENT (> 3 IN.) (0-100 TON)	TON	193.50
12A	ASPHALTIC CONCRETE PAVEMENT (> 3 IN.) (100+ TON)	TON	137.00
13	ASPHALTIC CONCRETE (PERMANENT PATCH)	TON	1,290.00
14	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "A" (0-100 LF)	L.F.	6.80
14A	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "A" (100+ LF)	L.F.	2.30
15	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "B" (0-100 LF)	L.F.	6.80
15A	ASPHALTIC CONCRETE TERMINATION MAG DETAIL 201 TYPE "B" (100+ LF)	L.F.	2.30
16	ASPHALTIC CONCRETE DRIVEWAY MAG DETAIL 205	TON	990.00
17	ASPHALTIC CONCRETE EDGE REPAIR (0-100 TON)	TON	330.00
17A	ASPHALTIC CONCRETE EDGE REPAIR (100+ TON)	TON	204.00
18	ASPHALTIC CONCRETE REMOVAL (2-4") (0-100 SY)	S.Y.	17.00
18A	ASPHALTIC CONCRETE REMOVAL (2-4") (100+ SY)	S.Y.	16.25
18B	ASPHALTIC CONCRETE REMOVAL (5-6") (0-100 SY)	S.Y.	17.00
18C	ASPHALTIC CONCRETE REMOVAL (5-6") (100+ SY)	S.Y.	17.60
19	SAW CUT ASPHALTIC CONCRETE PAVEMENT (2-4" depth) (0-100 LF)	L.F.	6.60
19A	SAW CUT ASPHALTIC CONCRETE PAVEMENT (2-4" depth) (100+ LF)	L.F.	4.60
19B	SAW CUT ASPHALTIC CONCRETE PAVEMENT (5-6" depth) (0-100 LF)	L.F.	8.60
19C	SAW CUT ASPHALTIC CONCRETE PAVEMENT (5-6" depth) (100+ LF)	L.F.	6.25
20	4" PAVEMENT MARKINGS (0-100 LF)	L.F.	16.00
20A	4" PAVEMENT MARKINGS (100+ LF)	L.F.	2.75
21	12" TURN LANE MARKINGS (0-100 LF)	L.F.	16.20
21A	12" TURN LANE MARKINGS (100+ LF)	L.F.	3.00
22	12" CROSSWALK MARKINGS (0-100 LF)	L.F.	19.10
22A	12" CROSSWALK MARKINGS (100+ LF)	L.F.	5.95
23	CONCRETE HANDICAP RAMP (0-3 EA)	EA	6,975.00
23A	CONCRETE HANDICAP RAMP (4+ EA)	EA	6,806.00
24	CONCRETE SIDEWALK (4 IN.) NEW (0-20 SY)	S.Y.	166.00
24A	CONCRETE SIDEWALK (4 IN.) NEW (20-200 SY)	S.Y.	150.00
24B	CONCRETE SIDEWALK (4 IN.) NEW (200+ SY)	S.Y.	116.25
25	CONCRETE SIDEWALK (6 IN.) (NEW W/ FIBER REINFORCEMENT) (0-20 SY)	S.Y.	187.00
25A	CONCRETE SIDEWALK (6 IN.) (NEW W/ FIBER REINFORCEMENT) (20-200 SY)	S.Y.	155.00
25B	CONCRETE SIDEWALK (6 IN.) (NEW W/ FIBER REINFORCEMENT) (200+ SY)	S.Y.	137.50

City of Sedona Street Maintenance Projects

26	CONCRETE DRIVEWAY (6 IN.) (NEW W/ FIBER REINFORCEMENT) (0-20 SY)	S.Y.	200.00
26A	CONCRETE DRIVEWAY (6 IN.) (NEW W/ FIBER REINFORCEMENT) (20+ SY)	S.Y.	171.25
27	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (REPLACE) (0-20 LF)	L.F.	87.00
27A	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (REPLACE) (20-200 LF)	L.F.	57.60
27B	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (REPLACE) (200+ LF)	L.F.	45.40
28	CONCRETE CURB (MAG TYPE "B") (REPLACE) (0-20 LF)	L.F.	78.00
28A	CONCRETE CURB (MAG TYPE "B") (REPLACE) (20-200 LF)	L.F.	54.50
28B	CONCRETE CURB (MAG TYPE "B") (REPLACE) (200+ LF)	L.F.	44.75
29	CONCRETE CURB & GUTTER (MAG TYPE "C") (REPLACE) (0-20 LF)	L.F.	87.00
29A	CONCRETE CURB & GUTTER (MAG TYPE "C") (REPLACE) (20-200 LF)	L.F.	54.50
29B	CONCRETE CURB & GUTTER (MAG TYPE "C") (REPLACE) (200+ LF)	L.F.	44.75
30	CONCRETE SIDEWALK (4 IN.) (REPLACE) (0-20 SY)	S.Y.	223.50
30A	CONCRETE SIDEWALK (4 IN.) (REPLACE) (20-200 SY)	S.Y.	196.30
30B	CONCRETE SIDEWALK (4 IN.) (REPLACE) (200+ SY)	S.Y.	185.75
31	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (NEW) (0-20 LF)	L.F.	69.30
31A	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (NEW) (20-200 LF)	L.F.	48.00
31B	CONCRETE CURB & GUTTER (MAG TYPE "A", 6 IN.) (NEW) (200+ LF)	L.F.	39.90
32	CONCRETE CURB (MAG TYPE "B") (NEW) (0-20 LF)	L.F.	69.30
32A	CONCRETE CURB (MAG TYPE "B") (NEW) (20-200 LF)	L.F.	48.00
32B	CONCRETE CURB (MAG TYPE "B") (NEW) (200+ LF)	L.F.	39.90
33	CONCRETE CURB & GUTTER (MAG TYPE "C") (NEW) (0-20 LF)	L.F.	69.30
33A	CONCRETE CURB & GUTTER (MAG TYPE "C") (NEW) (20-200 LF)	L.F.	48.00
33B	CONCRETE CURB & GUTTER (MAG TYPE "C") (NEW) (200+ LF)	L.F.	39.90
34	SEDONA RED CONCRETE COLOR	C.Y.	74.00
35	TREE REMOVAL 12 IN. TO 24 IN. Dia	EA	1,620.00
36	STREET SWEEPING (Power broom)	HR	145.00
37	SIDEWALK SWEEPING (Manual)	CR. HR	51.50
38	SIDEWALK SWEEPING (Power broom)	CR. HR	145.00
39	ONE (1) SACK ABC SLURRY (0-10 CY)	C.Y.	248.00
39A	ONE (1) SACK ABC SLURRY (10+ CY)	C.Y.	171.60
40	CORE SAMPLING	EA	138.50
41	STORM WATER POLLUTION PREVENTION (percentage of overall work order)	%	1.5%
42	MOBILIZATION (percentage of overall work order)	%	9%
43	QUALITY CONTROL & TESTING (percentage of overall work order)	%	1.5%
44	CONSTRUCTION STAKING	HR	230.00
45	UTILITY POTHOLING	HR	405.60
46	TACK COAT (0-300 SY)	S.Y.	10.00
46A	TACK COAT (300+ SY)	S.Y.	3.00
47	ASPHALTIC CONCRETE PULVERIZING (2-4") (0-1000 SY)	S.Y.	10.00
47A	ASPHALTIC CONCRETE PULVERIZING (2-4") (1000+ SY)	S.Y.	4.75
47B	ASPHALTIC CONCRETE PULVERIZING (5-6") (0-1000 SY)	S.Y.	10.90
47C	ASPHALTIC CONCRETE PULVERIZING (5-6") (1000+ SY)	S.Y.	5.00
48	DUAL LAYER WEED BARRIER	S.Y.	15.00
49	LIQUID ROAD SEAL COAT (0-1,000 SY)	S.Y.	7.45
49A	LIQUID ROAD SEAL COAT (1,000-10,000 SY)	S.Y.	6.45
49B	LIQUID ROAD SEAL COAT (10,000-50,000 SY)	S.Y.	6.00
49C	LIQUID ROAD SEAL COAT (50,000+ SY)	S.Y.	4.60
50	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (0-1,000 SY)	S.Y.	217.75
50A	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (1,000-10,000 SY)	S.Y.	43.00
50B	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (10,000-50,000 SY)	S.Y.	8.25
50C	FRACTURED AGGREGATE SURFACE TREATMENT (FAST) (50,000+ SY)	S.Y.	7.50



**CITY COUNCIL
AGENDA BILL**

**AB 2464
July 27, 2021
Consent Items**

Agenda Item: 3h
Proposed Action & Subject: Approval of the publication of a Revised Notice of Intention to Increase Wastewater Rates in accordance with A.R.S. § 9-511.01 and to set a revised public hearing date at which time Council will consider adoption of a final ordinance changing the City's wastewater capacity fee rates and rate structure.

Department	Financial Services/Wastewater
Time to Present	N/A
Total Time for Item	
Other Council Meetings	November 13, 2018, March 26, 2019, August 13, 2019, January 29, 2020, March 24, 2020, May 25, 2021
Exhibits	A. Revised Notice of Intention to Increase Wastewater Rates for Capacity Fees

City Attorney Approval	Reviewed 7-20-21 KWC	Expenditure Required	
		\$	N/A
City Manager's Recommendation	Approve a Revised Notice of Intention to Increase Wastewater Rates for Capacity Fees and set a future public hearing date.	Amount Budgeted	
		\$	N/A
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: On May 25, 2021, City Council approved a Notice of Intention to Increase Wastewater Rates for Capacity Fees and set a public hearing date for July 27, 2021. The Notice was posted on the City's website on May 26, 2021; however, due to a miscommunication, the Notice was not published in the newspaper 20 days prior to the public hearing as required by A.R.S. § 511.01.A.2. A new Notice of Intention with a public hearing date of September 28, 2021 requires Council approval. This is the first available date that meets the notice requirements and also allows for availability of the consultants.

Estimated Timeline and Remaining Action Items:

The timeline for the remaining action items is as follows:

Task	Date
Council Adoption of Revised Notice of Intention to Increase Rates/Set Public Hearing Date (at least 60 days before Public Hearing)	July 27, 2021
Rates and Study Details Posted and Available for Review (at least 30 days before Public Hearing)	On or before August 29, 2021
Publish Notice of Intention (at least 20 days before Public Hearing)	On or before September 8, 2021
Public Hearing/Adoption of Rates	September 28, 2021
Effective Date of New Rates (at least 30 days after adoption)	November 1, 2021

Revised Notice of Intention. A Revised Notice of Intention to Increase Wastewater Rates and a public hearing are required for proposed rate structure changes since some customers will have increases in their capacity fees. Other customers will experience decreases in their capacity fees. The revised Notice is attached as Exhibit A.

Effective Date of New Rates. If approved, the new rates would be effective November 1, 2021.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): N/A.

MOTION

I move to: approve a Revised Notice of Intention to Increase Wastewater Rates for Capacity Fees and set a future public hearing date for not later than September 28, 2021.

**CITY OF SEDONA ARIZONA
NOTICE OF PUBLIC HEARING**

**REVISED NOTICE OF INTENTION TO
INCREASE WASTEWATER RATES FOR CAPACITY FEES**

Pursuant to A.R.S. § 38-431.02 and A.R.S. § 9-511.01, notice is hereby given to the general public that the Mayor and Council of the City of Sedona will hold a **Public Hearing on September 28, 2021 at 4:30 p.m.** at City Hall, Council Chambers, 102 Roadrunner Drive, Sedona Arizona to seek public comment regarding the intent to increase wastewater rates for capacity fees. At the hearing, the City will accept verbal and written comments concerning the proposed wastewater rate increase. A Sewer Capacity Fee Study Report (Report), including documentation supporting the modification, has been prepared by Willdan Financial Services. The Report is on file with the Sedona City Clerk and is available on the City's website by clicking [City of Sedona 2021 Sewer Capacity Fee Study](#).

/s/ Susan L. Irvine, to be published on or before September 8, 2021

Susan L. Irvine, CMC, City Clerk



**CITY COUNCIL
AGENDA BILL**

**AB 2670
July 27, 2021
Regular Business**

Agenda Item: 8a

Proposed Action & Subject: Discussion/possible action regarding a Resolution approving the sale, execution, and delivery of excise tax revenue refunding obligations evidencing all the interests of the owner thereof in a Purchase Agreement from the City; approving the form and authorizing the execution and delivery of such Purchase Agreement and other necessary agreements for such sale; delegating authority to determine certain matters and terms with respect to the foregoing; and declaring an emergency.

Department	Financial Services
Time to Present	15 minutes
Total Time for Item	45 minutes
Other Council Meetings	June 2-3, 2021, July 13, 2021
Exhibits	<ul style="list-style-type: none"> A. Resolution B. Third Purchase Agreement C. Third Trust Agreement D. Escrow Trust Agreement E. Purchase and Exchange Agreement F. Placement Agent Agreement G. PowerPoint Presentation

City Attorney Approval	Reviewed 7-19-21 KWC	Expenditure Required	
		\$ 117,796 (estimated expenditure)	\$ 8,768,205 (estimated other financing uses)
City Manager's Recommendation	Approve the resolution for the issuance of a new Refunding Debt Series (Taxable Series 2021-1 and Series 2021-2), which approves and authorizes execution of the Purchase Agreement, Trust	Amount Budgeted	
		\$ 9,102,000	
		Account No. (Description)	59-6255-15-6952 (\$102,000 – Debt Issuance Cost) 59-4900-01-6890 (\$9,000,000 – Payment to Refunded Bond Escrow Agent)

	Agreement, Escrow Trust Agreement, Purchase and Exchange Agreement and Placement Agent Agreement needed to complete the restructuring of the 2012 Debt Series.		Finance Approval <input checked="" type="checkbox"/>
SUMMARY STATEMENT			

Background:

Series 2012 Refunding

The 2012 Series, which matures July 1, 2026, is paid with a combination of General Fund subsidies and Wastewater revenues. Currently, \$8,395,000 of principal is outstanding and subject to call in July 2022. We are looking to refund the total amount remaining outstanding.

This series has a remaining average life of 4.394 years at an average coupon rate of 4.50%. The remaining average life averages the amount of principal that matures each year, i.e., it reflects how rapidly principal is expected to be paid off. The remaining debt on this issue is callable on July 1, 2022 at par or 100%. Federal tax law does not currently allow tax-exempt refundings more than 90 days before a call date. A convertible or “cinderella” refunding accounts for this by having a taxable interest rate up until 90 days before the call date and then converts to a tax-exempt interest rate for the life of the debt. Wells Fargo has already proposed both a tax-exempt and taxable rate of 1.16% and 1.41%, respectively. Estimated net total savings of this \$8.889 million refunding (\$8.395 million principal, \$377k of interest to the call date, plus financing costs) at an estimated all-in true interest cost (interest rate adjusted upwards to account for financing costs) of 1.53% is \$754,418.34 (gross debt service savings), using a private placement cinderella refunding.

The Governmental Finance Officers Association (GFOA) has suggested that governments use the net present value (NPV) of savings as a percent of the refunding bonds to evaluate the appropriateness of a refunding. As a threshold, the NPV savings should be at least 3-5 percent. The anticipated NPV savings as a percent of refunded bonds for the 2012 Series is approximately 8.72 percent (or \$732,604.42), assuming the rates provided by Wells Fargo for the private placement.

The proposed resolution approves issuance of a new Debt Taxable Series 2021-1 and Series 2021-2, which will refund and replace the City’s remaining 2012 Series.

In conjunction with approving the refunding debt, the resolution approves and authorizes the execution of the following documents:

- Third Purchase Agreement
- Third Trust Agreement
- Escrow Trust Agreement
- Purchase and Exchange Agreement and
- Placement Agent Agreement.

The Taxable Series 2021-1 and Series 2021-2 Obligations are being executed and delivered to refund in advance of maturity all remaining outstanding amounts of the Series 2012 Obligations of the City and will constitute all of the interests in purchase payments (the “Payments”) to be

made by the City under a **Third Purchase Agreement**, to be dated as of August 1, 2021, by and between U.S. Bank National Association, as seller (the “Trustee”), and the City, as purchaser. The property which will be the subject of the Purchase Agreement (which is City-owned property) will be conveyed by the City to the Trustee, and then conveyed back to the City by the Trustee for the Payments, all pursuant to the Purchase Agreement.

The Series 2021-1 Taxable and Series 2021-2 Obligations will be executed by the Trustee, in its separate capacity as Trustee, pursuant to a **Third Trust Agreement**, to be dated as of August 1, 2021, between the City and the Trustee. Under the Trust Agreement, the right to receive the Payments will be assigned to the Trustee. The property which is the subject of the Purchase Agreement does not constitute security for the payment of the Series 2021-1 Taxable and Series 2021-2 Obligations.

The proceeds of the Series 2021-1 Taxable and Series 2021-2 Obligations will be deposited with the Trustee, acting in its separate capacity as Escrow Trustee (the “Escrow Trustee”), pursuant to an **Escrow Trust Agreement**, to be dated as of August 1, 2021, between the Escrow Trustee and the City. Such proceeds will be held in trust by the Escrow Trustee for prepayment of the Series 2012 Obligations on July 1, 2022 (the first date the Series 2012 Obligations may be prepaid), all pursuant to the Escrow Trust Agreement.

To secure the payment of the Payments, the City will pledge the Excise Taxes thereto, and the Payments will be secured by a pledge of and first lien on the Excise Taxes on a parity with (i) the City’s lease payment obligations pursuant to a City Lease, dated as of August 1, 1998, between the City and Sedona Wastewater Municipal Property Corporation, as amended, relating to the Series 1998 Bonds and (ii) the City’s installment payment obligations pursuant to a Second Purchase Agreement, dated as of December 1, 2015, between the City and U.S. Bank National Association, relating to the City’s Excise Tax Revenue Refunding Obligation, Second Series 2015 (such remaining outstanding Series 1998 Bonds and Second Series 2015 Obligations, the “Existing Parity Obligations”), and (iii) “Additional Parity Obligations” that may be hereafter issued on a parity therewith and with the Series 2021-1 Taxable and Series 2021-2 Obligations.

“Excise Taxes” means all excise taxes, transaction privilege (sales, license and use) taxes, vehicle license fees, plan review deposit fees, building permit fees, conditional use permit fees, development review fees, franchise fees, fines and forfeitures which the City now collects and which it may collect in the future, together with the City’s portion of any excise taxes, transaction privilege (sales and use) taxes and income taxes imposed and collected by the State, or any political subdivision thereof, or any other governmental unity or agency, and returned, allocated or apportioned to the City, EXCEPT (i) any such taxes, fees, fines and forfeitures which the City may enact in the future which must be used or expended by the City for specific purposes, and (ii) any such taxes which, by State law, rule or regulation must be expended for specific purposes, such as motor vehicle fuel taxes.

The City will agree in the Purchase Agreement that the Excise Taxes will be maintained so that the amount of all such Excise Taxes received for the next preceding fiscal year shall be equal to at least 1.50 times the total of payments payable under the Existing Parity Obligations, the Series 2021-1 Taxable and Series 2021-2 Obligations and any Additional Parity Obligations. If such receipts of Excise Taxes for any such preceding fiscal year shall not equal 1.50 times such payment requirements, the City will, to the extent permitted by law, either impose new excise, transaction privilege and franchise taxes or will increase the rates for such taxes currently imposed in order that the current receipts of Excise Taxes will be sufficient to meet all current payment requirements.

The City will also agree in the Purchase Agreement that it will not further encumber the Excise Taxes on a basis equal to the lien and pledge provided for in the Purchase Agreement unless the Excise Taxes collected in the preceding fiscal year shall have amounted to at least 1.50 times the highest combined interest and principal payment requirements for any succeeding fiscal year for all Existing Parity Obligations, the Series 2021-1 Taxable and Series 2021-2 Obligations and any Additional Parity Obligations then outstanding and any Additional Parity Obligations proposed.

On the anticipated closing date for the financing (August 13, 2021), the City will cause the Trustee to execute and deliver to the purchaser thereof, the Series 2021-1 Taxable Obligation. The **Purchase and Exchange Agreement**, to be dated the closing date, by and between the City and such purchaser, provides for, under certain conditions, the tender and exchange of the Series 2021-1 Taxable Obligation for the Series 2021-2 Obligation (which will be tax-exempt). This is expected to occur on the date that is 90 days prior to the July 1, 2022 redemption date for the Series 2012 Obligations.

Stifel, Nicolaus & Company, Incorporated will submit a proposal to place the Series 2021-1 Taxable and Series 2021-2 Obligations with investor(s) pursuant to a **Placement Agent Agreement**, to be dated the date of placement of the Series 2021-1 Taxable Obligation, by and between the City and the Placement Agent.

In order to take advantage of this refunding opportunity on a timely basis, it is required that the proposed resolution be passed as an emergency measure. Per A.R.S. §19-142(B), "An emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths of all the members elected to the city or town council, taken by ayes and noes, and also approved by the mayor."

Community Plan Consistent: Yes - No - Not Applicable

Climate Action Plan/Sustainability Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): Wait to refund the Series 2012 debt or not refinance at all.

MOTION

I move to: approve Resolution 2021-___, approving the sale, execution, and delivery of excise tax revenue refunding obligations evidencing all the interests of the owner thereof in a third purchase agreement from the City; approving the form and authorizing the execution and delivery of such purchase agreement and other necessary agreements for such sale; delegating to the City Manager the authority to designate certain terms thereof; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by the resolution and declaring an emergency.

RESOLUTION NO. 2021-__

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A THIRD PURCHASE AGREEMENT, A THIRD TRUST AGREEMENT, AN ESCROW TRUST AGREEMENT, A PURCHASE AND EXCHANGE AGREEMENT AND OTHER NECESSARY AGREEMENTS, INSTRUMENTS AND DOCUMENTS; APPROVING THE SALE AND EXECUTION AND DELIVERY OF A NOT TO EXCEED \$9,000,000 PRINCIPAL AMOUNT EXCISE TAX REVENUE REFUNDING OBLIGATIONS, TAXABLE SERIES 2021-1 AND SERIES 2021-2, EACH EVIDENCING SEPARATELY, WHEN EXECUTED AND DELIVERED, ALL THE INTERESTS OF THE OWNER THEREOF IN THE PAYMENTS TO BE MADE PURSUANT TO THE THIRD PURCHASE AGREEMENT TO REFUND CERTAIN OBLIGATIONS OF THE CITY; DELEGATING AUTHORITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council of the City of Sedona, Arizona (the “City”), have determined that it will be beneficial for its citizens to refinance its obligations with respect to all or a portion of the remaining, outstanding City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2012 (the “Obligations Being Refunded”), provided that such refinancing shall result in a present value debt service savings, net of costs associated with the hereinafter-defined Obligation, as a percentage of the Obligations Being Refunded of not less than three percent (3%); and

WHEREAS, in order to refinance the Obligations Being Refunded, the Mayor and Council of the City hereby deem it necessary and desirable to provide for the sale and execution and delivery and execution, tender and delivery, respectively, of an Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1, evidencing the interest of the owner thereof in purchase payments to be made by the City to U.S. Bank National Association, as trustee (the “Trustee” and, such Obligation, the “Taxable Obligation”) and, at the option of the City and if the conditions described in hereinafter described Exchange Agreement are satisfied, an Excise Tax Revenue Refunding Obligation, Series 2021-2, evidencing the same interest (the “Tax-Exempt Obligation” and, together with the Taxable Obligation, the “Obligation”) provided for by this Resolution pursuant to the Third Trust Agreement, to be dated as of the first day of the month of the dated date of the Taxable Obligation established as provided herein (the “Trust Agreement”), between the Trustee and the City, such purchase payments to be made pursuant to the Third Purchase Agreement, to be dated as of the first day of the month of the dated date of the Taxable Obligation established as provided herein (the “Purchase Agreement”), between the City and the Trustee, in its separate capacity as “Seller”; and

WHEREAS, Stifel, Nicolaus & Company, Incorporated (the “Placement Agent”) will submit a proposal to place the Taxable Obligation pursuant to a Placement Agent Agreement, to be dated the date of placement of the Taxable Obligation (the “Placement Contract”), by and between the City and the Placement Agent, the Placement Agent 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 the Taxable Obligation to be placed by the Placement Agent pursuant

to the Strategic Alliance of Volume Expenditures (SAVE) Cooperative Response Proposal #C-005-1718; and

WHEREAS, there have been presented to the Mayor and Council of the City at the meeting of the Mayor and Council of the City 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 Taxable Obligation (the "Escrow Trust Agreement"), between the Trustee in its separate capacity as escrow trustee (the "Escrow Trustee"), and the City, for the establishment of an escrow to pay a portion of the principal and interest with respect to the Obligations Being Refunded and to prepay amounts due pursuant to the Obligations Being Refunded; (4) the proposed form of the Purchase and Exchange Agreement, to be dated the date of the Taxable Obligation (the "Exchange Agreement"), by and between the City and Wells Fargo Bank, National Association, as purchaser, providing for, under certain conditions, the tender and exchange of the Taxable Obligation for the Tax-Exempt Obligation; and (5) the proposed form of the Placement Contract;

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

Section 1.

(a) The execution and delivery of the Obligation by the Trustee is hereby approved as allowed by the Trust Agreement.

(b) The City Representative (as such term is defined in the Trust Agreement) is hereby authorized to determine on behalf of the City the date the Taxable Obligation is to be placed by the Placement Agent and the date the Tax-Exempt Obligation is to be tendered and exchanged for the Taxable Obligation; the total aggregate principal amount of the Taxable Obligation which is to be executed and delivered but not to exceed the principal amount of \$9,000,000; the date the Taxable Obligation is to be dated; the dates on which interest on the Obligation is to be payable and the interest rate per annum the Obligation is to bear (but, except in the case of default or an event of taxability, not greater than four percent (4%)); the date the Obligation is to mature but not later than July 1, 2026, and the provisions for redemption thereof in advance of such date; the maturity dates and principal amounts of the Obligations Being Refunded and the provisions for redemption thereof; the terms upon which the Taxable Obligation is to be sold (including determinations of price and placement agent compensation); provided, however, that the foregoing determinations must result in the savings indicated in the recitals hereto and the yield on the Obligation, calculated for federal income tax purposes, not exceeding four percent (4%) (except in the case of default or an event of taxability).

(c) The form and other terms of the Obligation, including the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the Trust Agreement and are hereby approved.

Section 2.

(a) The Placement Contract is hereby approved, and the Mayor or, in the absence thereof, any other member of the Council of the City is hereby authorized and directed, for and in the name and on behalf of the City, to execute, and the Clerk of the

City to attest and deliver to the Placement Agent, the Placement Contract, such approval to be conclusively evidenced by the execution and delivery thereof.

(b) The form, terms and provisions of the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement and the Exchange Agreement, in substantially the forms of such documents (including the Taxable Obligation and the Tax-Exempt Obligation and other exhibits thereto) presented at the meeting of the Mayor and Council of the City at which this Resolution is being adopted are hereby approved, with such final provisions, insertions, deletions and changes as determined as provided hereinabove and shall be approved by the Mayor or, in the absence thereof, Vice Mayor, the execution of each such document being conclusive evidence of such approval, and the Mayor or, in the absence thereof, Vice Mayor and the Clerk are hereby authorized and directed, for and on behalf of the City, to execute and deliver and attest, where applicable, or approve the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement and the Exchange Agreement and to take all action to carry out and comply with the terms of such documents.

Section 3. The Trustee (including in its capacity as Seller and as Escrow Trustee) is hereby 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 and the Exchange Agreement and the sale and execution and delivery of the Taxable Obligation and the tender and exchange of the Taxable Obligation for the Tax-Exempt Obligation and is further authorized and directed to enter into such agreements as may be reasonable for the administration of the trusts so held by it.

Section 4. The covenants and agreements contained in the Purchase Agreement as to the pledge of and the lien on the Excise Taxes (as defined in the Purchase Agreement) and the restriction on the issuance of further parity obligations secured by the Excise Taxes are approved and confirmed.

Section 5. After the Taxable Obligation is delivered by the Trustee to the purchaser thereof upon receipt of payment therefor, this Resolution shall be and remain irrevocable until the Obligation and the interest and premium, if any, thereon shall have been fully paid, cancelled and discharged.

Section 6. The Mayor, the Clerk, the Manager and the other officers of the City, on behalf of the City, are each hereby authorized and directed, without further order of the Mayor and Council of the City, to execute and deliver such certificates, proceedings and agreements 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.

Section 7. 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 Obligation as contemplated by this Resolution whether heretofore or hereafter taken are hereby ratified, confirmed and approved.

Section 8. 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 9. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, particularly to immediately sell the Taxable Obligation to secure the best, available economic terms therefor, 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.

[Remainder of page left blank intentionally]

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 27th day of July 2021.

Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

Kurt W. Christianson, City Attorney

CERTIFICATION

I hereby certify that the foregoing Resolution No. 2021-..... was duly passed and adopted by the Mayor and Council of the City of Sedona, Arizona, at a regular meeting held on July 27, 2021, that the vote thereon was ayes, nay, that the Mayor and Councilmembers were present thereat and that such meeting was called and held pursuant to law.

Susan L. Irvine, CMC, City Clerk

THIRD PURCHASE AGREEMENT

by and between

U.S. BANK NATIONAL ASSOCIATION,
as Seller

and

THE CITY OF SEDONA, ARIZONA,
as Buyer

Dated as of August 1, 2021

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PAYMENT SCHEDULE

THIRD PURCHASE AGREEMENT

THIS THIRD PURCHASE AGREEMENT, dated as of August 1, 2021 (this “Agreement”), by and between **THE CITY OF SEDONA, ARIZONA**, a municipal corporation and a political subdivision under the laws of the State of Arizona (“City”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association (“Seller”), in its capacity as trustee (“Trustee”) under the Third Trust Agreement, dated as of even date herewith (the “Trust Agreement”), by and between Trustee and City,

WITNESSETH:

WHEREAS, in order to refinance certain outstanding obligations and to finance the costs of construction of certain improvements to the wastewater system of City, the Sedona Wastewater Municipal Property Corporation (the “MPC”) issued its Excise Tax Revenue Bonds, Series 1998, consisting of \$34,730,000 principal amount of current interest bonds (the “Series 1998 Current Interest Bonds”) and \$6,305,000 initial principal amount of capital appreciation bonds (together with the Series 1998 Current Interest Bonds, the “Series 1998 Bonds”); and

WHEREAS, the Series 1998 Bonds are payable from rental payments to be made by City pursuant to the provisions of a City Lease, dated as of August 1, 1998, as amended by a First Amendment to City Lease, dated as of November 1, 2000 (as so amended, the “City Lease”), by and between City and the MPC, and the obligation to make such rental payments under the City Lease is secured by a pledge of the Excise Taxes (as that term is hereinafter defined); and

WHEREAS, Section 3.3 of the City Lease provides as follows:

(a) The City hereby pledges for the payment of the rental payments under Section 1.3(a) hereof, all Excise Taxes. The City intends that this pledge shall be a first lien upon such amounts of said Excise Taxes (except as described in (h) below), as will be sufficient to make the rental payments pursuant to Section 1.3(a) hereof each month, and the City agrees and covenants to make said rental payments from such Excise Taxes, except to the extent that it chooses to make such payments from other funds pursuant to Section 3.2 above.

(b) For purposes of this the City Lease, “Excise Taxes” means all excise taxes, transaction privilege (sales, license and use) taxes, vehicle license fees, plan review deposit fees, building permit fees, conditional use permit fees, development review fees, franchise fees, fines and forfeitures which the City now collects and which it may collect in the future, together with the City’s portion of any excise taxes, transaction privilege (sales and use) taxes and income taxes imposed and collected by the State, or any political subdivision thereof, or any other governmental unit or agency, and returned, allocated or apportioned to the City, EXCEPT (i) any such taxes, fees, fines and forfeitures which the City may enact in the future which must be used or expended by the City for specific purposes, and (ii) any such taxes which, by State law, rule or regulation must be expended for specific purposes, such as motor vehicle fuel taxes.

and Section 3.5 of the City Lease provides as follows:

The City, for itself, its successors and assigns, covenants and agrees with the registered owners and holders of the Corporation's Series 1998 Bonds to be issued under the Indenture, so long as any of said Series 1998 Bonds remain outstanding and the principal and interest on the Series 1998 Bonds shall be unpaid or unprovided for, it will not further encumber the Excise Taxes pledged under Section 3.3 hereof on a basis prior and paramount to the lien and pledge provided for under Section 3.3 hereof and that it will not further encumber the Excise Taxes pledged under Section 3.3 hereof on a basis equal to the lien and pledge provided for in Section 3.3 hereof unless the Excise Taxes collected in the preceding fiscal year shall have amounted to at least one and fifty hundredths (1.50) times the highest combined interest and principal payment requirements for any succeeding fiscal year for all Series 1998 Bonds, Prior Obligations, any parity or additional parity bonds or other obligations secured by a parity pledge of the Excise Taxes then outstanding and any parity or additional parity bonds or other obligations so proposed to be secured by a parity pledge of the Excise Taxes.

; and **WHEREAS**, City, in order to finance the costs to refinance certain other outstanding obligations, entered into a Lease Agreement, dated as of January 1, 2002 (the "2002 Lease"), with National Bank of Arizona, as lessor, and a Trust Agreement, dated as of January 1, 2002 (the "2002 Trust Agreement"), with such lessor and National Bank of Arizona, as trustee (the "2002 Trustee") and caused the 2002 Trustee, pursuant to the 2002 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2002 (the "2002 Obligations"), evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2002 Lease, such lease payments under the 2002 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, further, City, in order to finance the costs to refinance certain other outstanding obligations, entered into a Lease Agreement, dated as of July 1, 2004 (the "First 2004 Lease"), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of July 1, 2004 (the "First 2004 Trust Agreement"), with such lessor and U.S. Bank National Association, as trustee (the "2004 Trustee") and caused the 2004 Trustee, pursuant to the First 2004 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2004, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the First 2004 Lease, such lease payments under the First 2004 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance a portion of the Series 1998 Bonds remaining outstanding, entered into a Second 2004 Lease Agreement, dated as of October 1, 2004 (the "Second 2004 Lease"), with U.S. Bank National Association, as lessor, and a Second 2004 Trust Agreement, dated as of October 1, 2004 (the "Second 2004 Trust Agreement"), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the Second 2004 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Second Series 2004 (the "Second 2004 Obligations"),

evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the Second 2004 Lease, such lease payments under the Second 2004 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance another portion of the Series 1998 Bonds remaining outstanding, entered into a Lease Agreement, dated as of May 1, 2005 (the “2005 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of May 1, 2005 (the “2005 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2005 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2005 (the “2005 Obligations”), evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2005 Lease, such lease payments under the 2005 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs of certain projects, entered into a First Purchase Agreement, dated as of November 1, 2007 (the “2007 Purchase Agreement”), with U.S. Bank National Association, as seller, and a Trust Agreement, dated as of November 1, 2007 (the “2007 Trust Agreement”), with the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2007 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Obligations, Series 2007 (the “2007 Obligations”), evidencing proportionate interests of owners thereof in purchase payments and prepayments to be made by City pursuant to the 2007 Purchase Agreement, such purchase payments under the 2007 Purchase Agreement being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance another portion of the Series 1998 Bonds remaining outstanding, entered into a Lease Agreement, dated as of February 1, 2012 (the “2012 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of February 1, 2012 (the “2012 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2012 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2012, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2012 Lease, such lease payments under the 2012 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance all Second 2004 Obligations remaining outstanding, entered into a Lease Agreement, dated as of May 1, 2014 (the “2014 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of May 1, 2014 (the “2014 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2014 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2014, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2014 Lease, such lease payments under the 2014 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance all 2005 Obligations remaining outstanding, entered into a Lease Agreement, dated as of June 1, 2015 (the “2015 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of June 1, 2015 (the “2015 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2015 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2015, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2015 Lease, such lease payments under the 2015 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance a portion of the 2007 Obligations remaining outstanding, entered into a Second Purchase Agreement, dated as of December 1, 2015 (the “Second Series 2015 Purchase Agreement”), with U.S. Bank National Association, as seller, and a Second Trust Agreement, dated as of December 1, 2015 (the “Second Series 2015 Trust Agreement”), with such seller and the 2004 Trustee and caused the 2004 Trustee, pursuant to the Second Series 2015 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligation, Second Series 2015 (the “Second Series 2015 Obligation”), evidencing all the interests of the owner thereof in purchase payments and prepayments to be made by City pursuant to the Second Series 2015 Purchase Agreement, such purchase payments under the Second Series 2015 Purchase Agreement being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, City has now determined that it will be beneficial for its citizens to refinance the acquisition, construction, installation, improvement and other matters necessary for the improvements as severally described in the 2012 Lease (the “Refinanced Projects”); and

WHEREAS, City is a political subdivision duly organized and validly existing under the laws of the State (as such term and all other terms not otherwise defined herein are defined in the Trust Agreement); the Constitution and the laws of the State authorize City to enter into this Agreement and to enter into the agreements and transactions contemplated by, and to carry out its obligations under, said agreements; City has duly authorized and executed all of the aforesaid agreements; this Agreement is a lawful, valid and binding obligation of City, enforceable against City in accordance with its terms, and has been duly authorized, executed and delivered by City; all required procedures for execution and performance of this Agreement, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes; neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof nor the consummation of the transactions contemplated hereby, 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; City has disclosed in writing to Seller all facts that do or will materially adversely affect the properties, operations or financial condition of City and that any notices or other written statements provided by City to Seller pursuant hereto will not contain any untrue statement of a material fact or omit any material fact necessary to make such

statements or information not misleading and the Refinanced Projects comply 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 Refinanced Projects; 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 refinance the costs of the Refinanced Projects which have not been paid to date pursuant to the terms hereof, City sells and conveys any interests it has in the Refinanced Projects to Trustee, without warranty, for the sum of \$10.00 and other valuable consideration had and received. For the amounts payable pursuant hereto (including the Payments), Trustee in turn hereby sells and conveys back to City, without warranty, and City hereby purchases from Trustee, any interests Trustee has in the Refinanced Projects. (City acknowledges that the right of Trustee to sell the Refinanced Projects arises out of the deposit for the benefit of City with the Escrow Trustee and that City is receiving good and valuable consideration from both such sales.)

(b) To provide the funds necessary for such purpose, Seller, in its capacity as Trustee, shall execute and deliver the Obligation. (Seller shall have no further obligation to provide funds for the Refinanced Projects.) In order to evidence such sale, Seller has executed and delivered to City a bill of sale on the date of original execution and delivery of the Taxable Obligation. Upon the execution and delivery of this Agreement, City shall be entitled to sole and exclusive possession of the Refinanced Projects.

(c) As the purchase price, City shall make the payments to Seller at the address specified pursuant to Section 19 hereof (or such other address as Seller may designate in writing) on the fifth Business Day immediately preceding the dates and in the amounts set forth in the payment schedule attached hereto and made a part hereof, subject to adjustment as set forth in this Section (the "Payments"). The obligation of City to make the Payments shall be limited to amounts from all Excise Taxes. City shall receive a credit against amounts due equal to any amounts held 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 or interest on the Obligation falling due on such date. (City shall also pay to Trustee its fees and expenses in accordance with the provisions of the Trust Agreement. Amounts payable to Trustee shall be paid by the means specified by Trustee in writing to City.) 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.

Upon the occurrence of an Event of Default or an event of default under the Trust Agreement, the amount of each of the Payments denominated as and comprising interest pursuant to this Agreement shall be computed by multiplying the portion of the Payments designated as principal by the Default Rate (on the basis of 360-day year of twelve 30-day months), and the Schedule attached hereto shall be deemed to be amended to reflect such re-calculation (subject to the final sentence of this Section 1(c)).

Upon the occurrence of a Determination of Taxability after the Mandatory Tender Date, (i) the amount of each of the Payments denominated as and comprising interest pursuant to this Agreement shall be computed by multiplying the portion of the Payments designated as principal by the Taxable Rate (on the basis of a 360-day year of twelve 30-day months), and the Schedule attached hereto shall be deemed to be amended to reflect such re-calculation, and (ii) City shall pay to Seller for the purpose of remitting to Trustee in trust for the benefit of the Owner (or former Owner, as the case may be) of the Tax-Exempt Obligation as a gross-up amount (1) an amount equal to the difference between (A) the amount of interest that would have been paid to such Owner during the period for which such interest is included in the gross income of such Owner if the Tax-Exempt Obligation had borne interest at the Taxable Rate, beginning on the Taxable Date (the "Taxable Period"), and (B) the corresponding Interest Portion with respect to the Tax-Exempt Obligation actually paid to the Owner (or former Owner, as the case may be) during the Taxable Period, and (2) to the extent permitted by applicable law, an amount equal to any interest, penalties or charges owed by such Owner (or former Owner, as the case may be) as a result of the Interest Portion with respect to the Tax-Exempt Obligation becoming included in the gross income of such Owner (or former Owner, as the case may be), together with any and all attorneys' fees, court costs, or other "out-of-pocket" costs incurred by such Owner (or former Owner, as the case may be) in connection therewith (subject, in each case, to the final sentence of this Section 1(c)).

Notwithstanding anything to the contrary herein, the Payments shall not include the Breakage Fee. City shall provide for payment of the Breakage Fee, if necessary, from any legally available monies of the City, including the Excise Taxes, but the Excise Taxes are not pledged to payment thereof.

Notwithstanding anything to the contrary herein, the amount of the Payments shall be limited in total amount such that the net present value debt service savings requirement provided in the Resolution shall be satisfied throughout the term of the Obligation.

(d) The obligations of City to make 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 shall have been fully paid or provided for, City (i) shall not suspend or discontinue the Payments, (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 Refinanced Projects, the taking by *eminent domain* of title to or temporary use of any or all of the Refinanced Projects, commercial frustration of purpose, abandonment of the Refinanced Projects 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).

(e) This Agreement shall not terminate so long as any payments are due and owing pursuant to the Obligation. Subject to Section 9, upon full payment or provision for payment and in consideration of the timely payment of all of 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. Upon the expiration of this Agreement as provided in this Section, City shall cause Seller to release any interest which Seller may have in the Refinanced Projects or the revenues thereof from the lien of the Trust Agreement.

(f) Any of 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.

Section 2. Pledge; Limited Obligations.

(a) City hereby pledges for the payment of the Payments under Section 1(c) hereof all Excise Taxes. (*Notwithstanding the provision in the City Lease with regard to Excise Taxes that, as of the date thereof, the transaction privilege (sales, license and use) tax collected by City is 3.0%, 2.5% of which has not been enacted for use or expenditure by City for specific purposes, retroactive to the date of the City Lease and for purposes hereof, the whole 3.0% will be treated as not having been enacted for use or expenditure by the City for specific purposes.*) City intends that this pledge shall be a first lien upon such amounts of said Excise Taxes as will be sufficient to make the Payments pursuant to Section 1(c) hereof. (City shall, unless made from its other funds as permitted by law and as determined from time to time by City, first make all of the Payments accruing under Section 1(c) hereof out of the Excise Taxes and thereafter may use the remaining Excise Taxes for any other lawful purpose, but only to the extent that, taking into account the reasonably anticipated receipts of the Excise Taxes, such Excise Taxes will not be reduced to such a level that City will be unable to make the next of the Payments under Section 1(c) hereof. City shall continue to deposit all Excise Taxes received by it in the “Excise Tax Revenue Fund” established pursuant to the City Lease, and City shall maintain the Excise Tax Revenue Fund throughout the life of this Agreement for the purpose of paying the Payments and all other payments due and owing under this Agreement and the City Lease. City shall transfer a sufficient amount of its Excise Taxes from the Excise Tax Revenue Fund to pay all amounts due and owing under Section 1(c) hereof in a timely manner, and after

such transfer, the remaining Excise Taxes in the Excise Tax Revenue Fund may be used by City for any lawful purpose. City shall maintain the integrity of the segregated Excise Tax Revenue Fund by (i) charging a responsible person in its employ with the duty of segregating its Excise Taxes and depositing them in the Excise Tax Revenue Fund, and (ii) faithfully making all Payments in accordance with the terms of this Agreement.

(b) City shall remit to Seller from the Excise Taxes 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 the Excise Taxes and shall in 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.

Section 3. Surplus and Deficiency of Revenues from Excise Taxes. 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 the Excise Taxes, *pro rata*, as applicable, with amounts due with respect to obligations on a parity herewith with respect thereto, 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. Use of Other Funds at the Option of City. As indicated in Section 2, City may, at the sole option of City, make payments due pursuant to Section 1 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. The Payments shall not 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 5. Additional Parity Lien Obligations. So long as the Obligation remains outstanding and the principal and interest on the Obligation shall be unpaid or unprovided for, City will not further encumber the Excise Taxes pledged under Section 2(a) hereof on a basis prior and paramount to the lien and pledge provided for under Section 2(a) hereof and will not further encumber the Excise Taxes pledged under Section 2(a) hereof on a basis equal to the lien and pledge provided for in Section 2(a) hereof unless the Excise Taxes collected in the preceding fiscal year shall have amounted to at least one and fifty hundredths (1.50) times the highest combined interest and principal payment requirements for any succeeding fiscal year for the Series 1998 Bonds, the Second Series 2015 Obligation, the Obligation, any parity or additional parity bonds or other obligations secured by a parity pledge of the Excise Taxes then outstanding and any parity or additional parity bonds or other obligations so proposed to be secured by a parity pledge of the Excise Taxes.

Section 6. City Control over Revenue Collection. The Excise Taxes will be maintained so that the amount of all such Excise Taxes received for the next preceding fiscal year shall be equal to at least one and fifty hundredths (1.50) times the total of the Payments payable under Section 1(c) hereof, installment purchase payments payable under Section 1(c) of the Second Series 2015 Purchase Agreement and rental payments payable under Section 1.3(a) of the City Lease and the combined interest and principal requirements for all parity or additional parity bonds or other obligations outstanding which are secured by a parity pledge of the Excise Taxes in any current fiscal year. City further covenants and agrees that if such receipts of Excise Taxes for any such preceding fiscal year shall not equal one and fifty hundredths (1.50) times the Payments payable under Section 1(c) hereof, installment purchase payments payable under Section 1(c) of the Second Series 2015 Purchase Agreement, rental payments payable under Section 1.3(a) of the City Lease and the combined interest and principal requirements for all parity or additional parity bonds or other obligations outstanding which are secured by a parity pledge of the Excise Taxes in any current fiscal year, or if at any time it appears that the current receipts of Excise Taxes will not be sufficient to meet the Payments payable under Section 1(c) hereof, installment purchase payments payable under Section 1(c) of the Second Series 2015 Purchase Agreement, rental payments payable under Section 1.3(a) of the City Lease and the combined interest and principal requirements for all parity or additional parity bonds or other obligations outstanding which are secured by a parity pledge of the Excise Taxes, it will, to the extent permitted by law, either impose new excise, transaction privilege and franchise taxes or will increase the rates for such taxes currently imposed in order that (1) the current receipts of Excise Taxes will be sufficient to meet all current requirements for the Payments payable under Section 1(c) hereof, installment purchase payments payable under Section 1(c) of the Second Series 2015 Purchase Agreement, rental payments payable under Section 1.3(a) of the City Lease and the combined interest and principal requirements for all parity or additional parity bonds or other obligations outstanding which are secured by a parity pledge of the Excise Taxes, and (2) the current year's receipts of such Excise Taxes will be reasonably calculated to attain the level as required above for the succeeding fiscal year's requirements for the Payments payable under Section 1(c) hereof, installment purchase payments payable under Section 1(c) of the Second Series 2015 Purchase Agreement, rental payments payable under Section 1.3(a) of the City Lease and the combined interest and principal requirements for all parity or additional parity bonds or other obligations outstanding which are secured by a parity pledge of the Excise Taxes.

Section 7. Certain Matters with Respect to Refinanced Projects. 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 Refinanced Projects for any particular purpose or the conformity of the Refinanced Projects 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 growing out of the acquisition, construction, installation or otherwise of the Refinanced Projects. Seller shall have no liability to City for any failure of any contractor to

perform any contract or other undertaking with respect to the Refinanced Projects in any respect. Seller shall have no obligation to obtain or insure compliance with any required permits or approval procedures with respect to the Refinanced Projects. In the event of any defect in any item of the Refinanced Projects or other claim with respect to the Refinanced Projects, recourse of City shall be against the contractors, manufacturers, suppliers, etc. of the Refinanced Projects 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 Refinanced Projects made or entered into by Seller and by any contractor, manufacturers, suppliers, etc. of the Refinanced Projects. 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. Seller is entering into this Agreement solely as Trustee, 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 the Seller be listed in the chain of title to the Refinanced Projects.

Section 8. 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 Trustee 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 under Section 4.1 of the Trust Agreement; or

(c) by depositing with a Depository Trustee, in trust for such purpose, any Government 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 9. Continuation of Agreement. 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, 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 Trustee pursuant to actions brought under the next Section.

Section 10. Default; Remedies Upon Default.

(a) (i) Upon (A) failure by City to pay any of the Payments at the time specified herein, (B) failure by City to pay any other payment required to be paid hereunder at the time specified herein, and the continuation of such failure for a period of

five (5) days after notification thereof by Trustee, (C) failure by City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clauses (A) and (B) of this Section 10(a)(i), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to City by Trustee or the Owner; provided, however, if the failure stated in the notice can be corrected, but not within the applicable period, Trustee and the Owner shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by City within the applicable period and diligently pursued until the default is corrected, or (D) the filing by City of a voluntary petition in bankruptcy, or failure by City promptly to lift any execution, garnishment or attachment, or adjudication of City as a bankrupt, or assignment by City for the benefit of creditors, or the entry by City into an agreement of composition with creditors, or the petition applicable to City in any proceedings instituted under the provisions of the United States Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted, then

(ii) subject to the limitations of the Trust Agreement, Seller may enforce this Agreement by appropriate action to collect amounts due or to become due under Section 1(c) hereof (including the making and collection of sufficient revenues and the segregation of the Excise Taxes and the proper application thereof) or to cause City to perform its obligations hereunder, in which event City shall be liable for all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by Seller. Upon the bringing of a suit to collect such amounts, Seller may request enforcement of the pledge and foreclosure of the lien set forth in Section 2 hereof, in which event Trustee, as a matter of right, without notice and without giving any bond or surety to City or anyone claiming on behalf of City, may have a receiver appointed of the Excise Taxes which are so pledged for the payment of such amounts, with such powers as the court making such appointment shall confer, and City does hereby irrevocably consent to such appointment.

No remedy herein conferred upon or reserved to Seller is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, now or hereafter existing, at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Seller to exercise any remedy reserved to it by this Section, it shall not be necessary to give any notice, other than such notice as may be required in this Section or by law.

In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Such rights and remedies as are given to Seller pursuant to this Section have been assigned by Seller to Trustee under the Trust Agreement, to which assignment City hereby consents. Such

rights and remedies shall be exercised by Trustee and the Owner as provided in the Trust Agreement.

(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 Trustee under the Trust Agreement.

Section 11. 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.

(b) Subject to the terms of the Trust Agreement, Seller sells, pledges, assigns, transfers and encumbers all and every part of its right, title and interest in and to this Agreement and all payments of any kind due or which become due to Seller hereunder to Trustee; provided, however, that such transfer or assignment shall not impair the Obligation, Trustee shall be bound by the terms hereof and all related agreements executed by Seller in connection herewith and shall execute such nondisturbance and acceptance instruments as shall reasonably be required to evidence the same as hereinafter provided, and shall become and be deemed to be the seller hereunder and have all of the rights, powers, privileges and remedies, and be subject to all of the covenants and agreements, of Seller hereunder for all purposes of this Agreement, except that City agrees and acknowledges that Trustee made no representation or warranty, and therefore will assume no obligation, with respect to the title, merchantability, condition, quality or fitness of the Refinanced Projects for any particular purpose or for the enforcement of any warranties or service agreement made or assigned and City shall have no right to abate, reduce, withhold or offset against any payments due hereunder on account of any claims for misrepresentations or breach of warranty or service agreements or any claims for sums due City from any predecessor(s) in interest of Seller. City attorns to and recognizes Trustee as the owner of all right, title and interest in, to and under this Agreement and the payments thereafter due and payable pursuant to this Agreement and as seller pursuant to this Agreement. City shall execute and deliver to Trustee such certificates or other instruments in such forms as may reasonably be required by Trustee and to which City can truthfully attest, including but not limited to a separate acknowledgment of assignment and attornment certificate in the customary form as to the right, title and interest of Trustee in, to and under this Agreement and the payments thereafter due and payable pursuant to this Agreement.

Section 12. City Appointed Agent for Seller. Seller hereby irrevocably appoints City as its sole and exclusive agent to act for and on behalf of Seller in refinancing the costs of the Refinanced Projects which have not been paid to date. 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.

Section 13. Federal Law Provisions.

(a) (i) As described in further detail in the Tax Certificate, no direction of City for the making of any investment or other use of the proceeds of the Obligation or of the Refinanced Projects 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 a “private activity bond” 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 Refinanced Projects 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 Refinanced Projects 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 Refinanced Projects.) 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)) 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 owner 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.

(D) The procedures required by any arbitrage rebate provision or separate agreement executed in connection with the issuance of the Obligations (initially, those in the next Section) shall be complied with for so long as compliance is necessary pursuant to the Code.

(b) Trustee has no duty or obligations under this Section 13 and has no duty to monitor compliance by City with this Section 13.

(c) This Section shall only be applicable if the Tax-Exempt Obligation is tendered for the Taxable Obligation on the Mandatory Tender Date.

Section 14. Rebate Provisions.

(a) (i) Terms used in this Section and not otherwise defined in paragraph (ii) hereof shall have the meanings given to them in the arbitrage certificate of City delivered in connection with the execution and delivery of the Obligation.

(ii) The following terms shall have the following meanings:

Bond Year shall mean each one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year shall begin on the date of issue of the Obligation and shall end on the date selected by City, provided that the first Bond Year shall not exceed one calendar year. The last Bond Year shall end on the date of retirement of the last Obligation.

Bond Yield is as indicated in such arbitrage certificate. Bond Yield shall be recomputed if required by Regulations section 1.148-4(b)(4) or 4(h)(3). Bond Yield shall mean the discount rate that produces a present value equal to the Issue Price of all unconditionally payable payments of principal, interest and fees for qualified guarantees within the meaning of Regulations section 1.148-4(f) and amounts reasonably expected to be paid as fees for qualified guarantees in connection with the Obligation as determined under Regulations section 1.148-4(b). The present value of all such payments shall be computed as of the date of issue of the Obligation and using semiannual compounding on the basis of a 360-day year.

Gross Proceeds shall mean:

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

(ii) transferred proceeds of the Obligation under Regulations section 1.148-9;

(iii) any amounts actually or constructively received from investing amounts described in (i), (ii) or this (iii) and

(iv) replacement proceeds of the Obligation within the meaning of Regulations section 1.148-1(c). Replacement proceeds include amounts reasonably expected to be used directly or indirectly to pay debt service on the Obligation, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Obligation in the event City or Trustee encounters financial difficulties and other replacement proceeds within the meaning of Regulations section 1.148-1(c)(4). Whether an amount is Gross Proceeds is determined without regard to whether the amount is held in any fund or account established under the Trust Agreement.

Investment Property shall mean any security, obligation (other than a tax-exempt bond within the meaning of Code section 148(b)(3)(A)), annuity contract or investment-type property within the meaning of Regulations section 1.148-1(b).

Issue Price shall mean the price determined as provided in Regulations section 1.148-1(b), initially \$_____.

Nonpurpose Investment shall mean any Investment Property acquired with Gross Proceeds and which is not acquired to carry out the governmental purposes of the Obligation.

Payment shall mean any payment within the meaning of Regulations section 1.148-3(d)(1) with respect to a Nonpurpose Investment.

Rebate Requirement shall mean at any time the excess of the future value of all Receipts over the future value of all Payments. For purposes of calculating the Rebate Requirement the Bond Yield shall be used to determine the future value of Receipts and Payments in accordance with Regulations section 1.148-3(c). The Rebate Requirement is zero for any Nonpurpose Investment meeting the requirements of a rebate exception under section 148(f)(4) of the Code or Regulations section 1.148-7.

Receipt shall mean any receipt within the meaning of Regulations section 1.148-3(d)(2) with respect to a Nonpurpose Investment.

Regulations shall mean the sections 1.148-1 through 1.148-11 and section 1.150-1 of the regulations of the United States Department of the Treasury promulgated under the Code, including and any amendments thereto or successor regulations.

Special Counsel's Opinion shall mean an opinion signed by an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by City.

(iii) Unless an exception available pursuant to the Regulations applies as indicated in a Special Counsel's Opinion or a written statement of an expert consultant employed pursuant to paragraph (viii) hereof, 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 payment required to be made under this Section shall be filed on or before the date such payment is due, with the Internal Revenue Service at the appropriate location and with required forms and other materials, currently by addressing it to IRS Service Center, Ogden, Utah 84201, and accompanying it with IRS Form 8038-T.

(iv) 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.

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

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

(B) Except as provided in Subsection (vi) or (vii), 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.

(vi) 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.

(vii) 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.

(viii) 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.

(b) Trustee has no duty or obligations under this Section 14 and has no duty to monitor compliance by City with this Section 14.

(c) This Section shall only be applicable if the Tax-Exempt Obligation is tendered for the Taxable Obligation on the Mandatory Tender Date.

Section 15. Quiet Possession; City's Easement to Seller. 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 Refinanced Projects, 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 Owner for whom it acts, a nonexclusive easement upon, in and to the Refinanced Projects for the purpose of permitting the Refinanced Projects to be maintained upon the premises.

Section 16. Covenant as to Conflict of Interest; Other Statutory Restrictions.

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

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

Section 17. Seller’s Limited Authority. Notwithstanding any other terms or provisions of this Agreement, the interest of Seller in the Refinanced Projects is solely in its capacity as Trustee for the purpose of facilitating the refinancing of the costs of the Refinanced Projects which have not been paid to date, and Seller shall not have the power, authority or obligation to assume any responsibility for the overall management or maintenance of the Refinanced Projects, including, without limitation, any day-to-day decision-making or operational aspects of the Refinanced Projects.

Section 18. Seller as Trustee. Seller is acting hereunder in its capacity as Trustee under the Trust Agreement and the term “Seller”, when used herein, shall mean Trustee as defined in the Trust Agreement.

Section 19. Notices; Mailing Addresses. All notices, consents or other communications required or permitted hereunder shall be deemed sufficient if given in writing addressed and mailed by registered or certified mail, or delivered to the party for which the same is intended or certified, as follows:

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

If to City: City of Sedona, Arizona
102 Roadrunner Drive
Sedona, Arizona 86336
Attention: City Manager

Section 20. 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) Seller hereunder shall have the right at any time or times, by notice to City, to designate or appoint any person or entity to act as agent or trustee for Seller for any purposes hereunder.

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

(g) 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.

(h) 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 NATIONAL ASSOCIATION, as
Trustee**

By _____
Authorized Representative

City:

**CITY OF SEDONA, ARIZONA, a municipal
corporation and political subdivision under the
laws of the State of Arizona**

By _____
Sandra J. Moriarty, Mayor

ATTEST:

By _____
Susan L. Irvine, City Clerk

[Signature page to Third Purchase Agreement]

**TAXABLE
PAYMENT SCHEDULE**

Payment Date	Principal	Interest*	Total Payment*
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**TAX-EXEMPT
PAYMENT SCHEDULE**

Payment Date	Principal	Interest**	Total Payment**
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* Subject to application of the Default Rate as provided in the Trust Agreement.

** Subject to application of the Default Rate and the Taxable Rate as provided in the Trust Agreement.

THIRD TRUST AGREEMENT

by and between

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

and

THE CITY OF SEDONA, ARIZONA

Dated as of August 1, 2021

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THIRD TRUST AGREEMENT

THIS THIRD TRUST AGREEMENT, dated as of August 1, 2021 (together with any duly authorized, executed and delivered supplement thereto, this “Trust Agreement” or “Agreement”), by and between **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, as trustee, or any successor thereto acting as trustee pursuant to this Trust Agreement and in its capacity as “Seller” pursuant to the hereinafter described Purchase Agreement (the “Trustee”), and **THE CITY OF SEDONA, ARIZONA**, a municipal corporation organized under the laws of the State of Arizona (the “City”);

WITNESSETH:

WHEREAS, in order to refinance certain outstanding obligations and to finance the costs of construction of certain improvements to the wastewater system of City, the Sedona Wastewater Municipal Property Corporation (the “MPC”) issued its Excise Tax Revenue Bonds, Series 1998, consisting of \$34,730,000 principal amount of current interest bonds (the “Series 1998 Current Interest Bonds”) and \$6,305,000 initial principal amount of capital appreciation bonds (together with the Series 1998 Current Interest Bonds, the “Series 1998 Bonds”); and

WHEREAS, the Series 1998 Bonds are payable from rental payments to be made by City pursuant to the provisions of a City Lease, dated as of August 1, 1998, as amended by a First Amendment to City Lease, dated as of November 1, 2000 (as so amended, the “City Lease”), by and between City and the MPC, and the obligation to make such rental payments under the City Lease is secured by a pledge of the Excise Taxes (as that term is hereinafter defined); and

WHEREAS, Section 3.3 of the City Lease provides as follows:

(a) The City hereby pledges for the payment of the rental payments under Section 1.3(a) hereof, all Excise Taxes. The City intends that this pledge shall be a first lien upon such amounts of said Excise Taxes (except as described in (h) below), as will be sufficient to make the rental payments pursuant to Section 1.3(a) hereof each month, and the City agrees and covenants to make said rental payments from such Excise Taxes, except to the extent that it chooses to make such payments from other funds pursuant to Section 3.2 above.

(b) For purposes of this the City Lease, “Excise Taxes” means all excise taxes, transaction privilege (sales, license and use) taxes, vehicle license fees, plan review deposit fees, building permit fees, conditional use permit fees, development review fees, franchise fees, fines and forfeitures which the City now collects and which it may collect in the future, together with the City’s portion of any excise taxes, transaction privilege (sales and use) taxes and income taxes imposed and collected by the State, or any political subdivision thereof, or any other governmental unit or agency, and returned, allocated or apportioned to the City, EXCEPT (i) any such taxes, fees, fines and forfeitures which the City may enact in the future which must be used or expended by the City for specific purposes, and (ii) any such taxes which, by State law, rule or regulation must be expended for specific purposes, such as motor vehicle fuel taxes.

and Section 3.5 of the City Lease provides as follows:

The City, for itself, its successors and assigns, covenants and agrees with the registered owners and holders of the Corporation's Series 1998 Bonds to be issued under the Indenture, so long as any of said Series 1998 Bonds remain outstanding and the principal and interest on the Series 1998 Bonds shall be unpaid or unprovided for, it will not further encumber the Excise Taxes pledged under Section 3.3 hereof on a basis prior and paramount to the lien and pledge provided for under Section 3.3 hereof and that it will not further encumber the Excise Taxes pledged under Section 3.3 hereof on a basis equal to the lien and pledge provided for in Section 3.3 hereof unless the Excise Taxes collected in the preceding fiscal year shall have amounted to at least one and fifty hundredths (1.50) times the highest combined interest and principal payment requirements for any succeeding fiscal year for all Series 1998 Bonds, Prior Obligations, any parity or additional parity bonds or other obligations secured by a parity pledge of the Excise Taxes then outstanding and any parity or additional parity bonds or other obligations so proposed to be secured by a parity pledge of the Excise Taxes.

; and **WHEREAS**, City, in order to finance the costs to refinance certain other outstanding obligations, entered into a Lease Agreement, dated as of January 1, 2002 (the "2002 Lease"), with National Bank of Arizona, as lessor, and a Trust Agreement, dated as of January 1, 2002 (the "2002 Trust Agreement"), with such lessor and National Bank of Arizona, as trustee (the "2002 Trustee") and caused the 2002 Trustee, pursuant to the 2002 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2002 (the "2002 Obligations"), evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2002 Lease, such lease payments under the 2002 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, further, City, in order to finance the costs to refinance certain other outstanding obligations, entered into a Lease Agreement, dated as of July 1, 2004 (the "First 2004 Lease"), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of July 1, 2004 (the "First 2004 Trust Agreement"), with such lessor and U.S. Bank National Association, as trustee (the "2004 Trustee") and caused the 2004 Trustee, pursuant to the First 2004 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2004, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the First 2004 Lease, such lease payments under the First 2004 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance a portion of the Series 1998 Bonds remaining outstanding, entered into a Second 2004 Lease Agreement, dated as of October 1, 2004 (the "Second 2004 Lease"), with U.S. Bank National Association, as lessor, and a Second 2004 Trust Agreement, dated as of October 1, 2004 (the "Second 2004 Trust Agreement"), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the Second 2004 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Second Series 2004 (the "Second 2004 Obligations"), evidencing proportionate interests of the owners thereof in lease payments and prepayments to

be made by City pursuant to the Second 2004 Lease, such lease payments under the Second 2004 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance another portion of the Series 1998 Bonds remaining outstanding, entered into a Lease Agreement, dated as of May 1, 2005 (the “2005 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of May 1, 2005 (the “2005 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2005 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2005 (the “2005 Obligations”), evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2005 Lease, such lease payments under the 2005 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs of certain projects, entered into a First Purchase Agreement, dated as of November 1, 2007 (the “2007 Purchase Agreement”), with U.S. Bank National Association, as seller, and a Trust Agreement, dated as of November 1, 2007 (the “2007 Trust Agreement”), with the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2007 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Obligations, Series 2007 (the “2007 Obligations”), evidencing proportionate interests of owners thereof in purchase payments and prepayments to be made by City pursuant to the 2007 Purchase Agreement, such purchase payments under the 2007 Purchase Agreement being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance another portion of the Series 1998 Bonds remaining outstanding, entered into a Lease Agreement, dated as of February 1, 2012 (the “2012 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of February 1, 2012 (the “2012 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2012 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2012 (the “2012 Obligations”), evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2012 Lease, such lease payments under the 2012 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance all Second 2004 Obligations remaining outstanding, entered into a Lease Agreement, dated as of May 1, 2014 (the “2014 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of May 1, 2014 (the “2014 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2014 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2014, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2014 Lease, such lease payments under the 2014 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance all 2005 Obligations remaining outstanding, entered into a Lease Agreement, dated as of June 1, 2015 (the “2015 Lease”), with U.S. Bank National Association, as lessor, and a Trust Agreement, dated as of June 1, 2015 (the “2015 Trust Agreement”), with such lessor and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2015 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligations, Series 2015, evidencing proportionate interests of the owners thereof in lease payments and prepayments to be made by City pursuant to the 2015 Lease, such lease payments under the 2015 Lease being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, then further, City, in order to finance the costs to refinance a portion of the 2007 Obligations remaining outstanding, entered into a Second Purchase Agreement, dated as of December 1, 2015 (the “Second Series 2015 Purchase Agreement”), with U.S. Bank National Association, as seller, and a Second Trust Agreement, dated as of December 1, 2015 (the “2015 Trust Agreement”), with such seller and the 2004 Trustee and caused the 2004 Trustee, pursuant to the 2015 Trust Agreement, to execute and deliver the City of Sedona, Arizona Excise Tax Revenue Refunding Obligation, Second Series 2015 (the “Second Series 2015 Obligation”), evidencing all the interests of the owner thereof in purchase payments and prepayments to be made by City pursuant to the Second Series 2015 Purchase Agreement, such purchase payments under the Second Series 2015 Purchase Agreement being secured by a pledge of the Excise Taxes on a parity as described hereinabove; and

WHEREAS, the City has now determined that it will be beneficial for its citizens to refinance the acquisition, construction, installation, improvement and other matters necessary for the improvements as severally described in the 2012 Lease (the “Refinanced Projects”) by redeeming all of the remaining, outstanding 2012 Obligations; and

WHEREAS, for the purpose of refinancing the Refinanced Projects, the City has heretofore agreed to make purchase payments to the Trustee, and the Trustee has agreed to provide for acquisition of the Refinanced Projects pursuant to the Third Purchase Agreement, dated as of August 1, 2021 (the “Purchase Agreement”), between the City, as purchaser, and the Trustee, in its separate capacity as seller, the payment of which shall be limited to amounts from the Excise Taxes; and

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

WHEREAS, for the purpose of obtaining money to be deposited with the Escrow Trustee (as such term and all other terms not otherwise defined hereinbefore are hereinafter defined) to redeem all of the remaining, outstanding 2012 Obligations, the Trustee will execute and deliver the Obligation in exchange therefor; and

WHEREAS, the City, pursuant to the Purchase Agreement, irrevocably pledges on a first lien basis for the payment of the Payments all Excise Taxes as the Excise Taxes collected in the preceding fiscal year have amounted to at least one and fifty hundredths (1.50)

times the highest combined interest and principal payment requirements for any succeeding fiscal year for the Series 1998 Bonds, the Second Series 2015 Obligation and the Obligation; and

WHEREAS, the City is a political subdivision duly organized and validly existing under the laws of the State; the Constitution and the laws of the State authorize the City to enter into this Agreement and to enter into the agreements and transactions contemplated by, and to carry out its obligations under, said agreements; the City has duly authorized and executed all of the aforesaid agreements; this Agreement is a lawful, valid and binding obligation of the City, enforceable against the City in accordance with its terms, and has been duly authorized, executed and delivered by the City; all required procedures for execution and performance of this Agreement, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes and neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City; the City has disclosed in writing to the Trustee all facts that do or will materially adversely affect the properties, operations or financial condition of the City and that any financial statements, notices or other written statements provided by the City to the Trustee pursuant hereto will not contain any untrue statement of a material fact or omit any material fact necessary to make such statements or information not misleading and the Refinanced Projects comply 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 Refinanced Projects;

NOW, THEREFORE, in consideration for the Obligation executed and delivered under this Trust Agreement, the acceptance by the Trustee of the trusts created herein and the purchase and acceptance of the Obligation by the Owner, and to secure the payment of principal thereof and interest thereon (to the extent provided herein), the rights of the Owner and the performance and the observance of the covenants and conditions contained in the Obligation, the Purchase Agreement and herein, the Trustee hereby declares an irrevocable trust and acknowledges its acceptance of all right, title and interest in and to the following described trust estate, which shall be administered by the Trustee according to the provisions of this Trust Agreement and for the benefit of the Owner:

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

B. Amounts on deposit from time to time in the funds created pursuant hereto, subject to the provisions of this Trust Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein and

C. Any and all other real or personal property of any kind from time to time hereafter by delivery or by writing of any kind specifically conveyed, pledged, assigned or transferred, as and for additional security hereunder for the Obligation, by Seller or by anyone on its behalf or with its written consent, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof,

TO HAVE AND TO HOLD, all and singular, the trust estate, including all additional property which by the terms hereof has or may become subject to the encumbrance of this Trust Agreement, unto the Trustee and its successors and assigns, forever, subject, however, to the rights of the City, its successors and assigns, under the Purchase Agreement;

IN TRUST, however, for the benefit and security of the Owner; and conditioned, however, that if the City shall well and truly pay or cause to be paid fully and promptly when due all indebtedness, liabilities, obligations and sums at any time secured hereby, including interest and attorneys' fees, and shall promptly, faithfully and strictly keep, perform and observe or cause to be kept, performed and observed all of its covenants, warranties and agreements contained herein, this Trust Agreement shall be and become void and of no further force and effect; otherwise, the same shall remain in full force and effect, and upon the trust and subject to the covenants and conditions hereinafter set forth. For such purposes, the City and the Trustee hereby agree as follows:

ARTICLE I DEFINITIONS

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

“Bank Transferee” means a transferee identified to the City and the Trustee for purposes of Sections 2.9 and 2.13 which is (i) an affiliate of the Owner or (ii) a trust or other custodial arrangement established by the Owner or an affiliate of the Owner, the owners of any beneficial interest in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities act of 1933, as amended.

“Breakage Fee” has the meaning provided in Exhibit C hereto.

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

“Closing Date” means August 13, 2021.

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

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

“**Corporate Trust Office**” means the office of the Trustee designated in Section 13.3 hereof or any successor corporate trust office.

“**Default Rate**” means the Prime Rate plus four percent (4.00%).

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

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

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

“**Determination of Taxability**” means (a) any determination, decision, decree or advisement by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction to the effect that interest on the Tax-Exempt Obligation is includable in income for federal income tax purposes or (b) the delivery by the Owner of a written opinion by a firm of attorneys of nationally recognized standing on the subject of tax-exempt municipal finance to the effect that such interest is includable for federal income tax purposes in the gross income of the Owner. A Determination of Taxability also shall be deemed to have occurred on the first to occur of the following:

1. the date when the City files any statement, supplemental statement, or other tax schedule, return or document, which discloses that interest on the Obligation is includable in income for federal income tax purposes; or
2. the effective date of any federal legislation enacted or federal rule or regulation promulgated after the date of this Agreement which has the effect that interest on the Obligation is includable in income for federal income tax purposes.

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

“**Escrow Trust Agreement**” means the Escrow Trust Agreement, dated as of August 1, 2021, by and between the City and the Escrow Trustee.

“**Escrow Trustee**” means U.S. Bank National Association in its capacity as escrow trustee pursuant to the Escrow Trust Agreement.

“**Event of Default**” means an event of default under the Purchase Agreement as provided in Section 10 thereof.

“**Exchange Agreement**” means that certain Purchase and Exchange Agreement dated August 13, 2021, between the City and Wells Fargo Bank, National Association, relating to the Obligation, as the same may be amended, modified or supplemented from time to time.

“**Government Obligations**” means direct general obligations of, or obligations the timely payment of principal of and interest on which are fully and unconditionally guaranteed by, the United States of America (including, without limitation, the interest portion of obligations issued by the Resolution Funding Corporation in book entry form and stripped by request to the Federal Reserve Bank of New York), including Government Obligations which have been stripped of their unmatured interest coupons and interest coupons stripped from Government Obligations, provided any stripped Government Obligations have been stripped by the applicable United States governmental agency.

“**Independent Counsel**” means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the City or the Trustee.

“**Interest Payment Date**” means each January 1 and July 1, commencing ____ 1, 20__, while principal represented by any Obligation is outstanding, provided that, if any such day is not a Business Day, any payment due on such date may be made on the next Business Day, without additional interest and with the same force and effect as if made on the specified date for such payment.

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

“**Mandatory Tender Date**” means any date on or after April 1, 2022, as designated in writing by the City pursuant to Section 4.5.

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

“**Non-Bank Transferee**” means a transferee identified to the City and the Trustee for purposes of Sections 2.9 and 2.13 which is not a Bank Transferee, but which constitutes a qualified institutional buyer as defined in Rule 144A promulgated under Section 144A under Securities Act of 1933, as amended, that is a commercial bank having a combined capital and surplus, determined as of the date of any transfer pursuant to Section 2.9 (b), of not less than \$5,000,000,000.

“Notification” shall have the meaning provided in Section 11.3.

“Obligation” means either the Taxable Obligation or, on and after the Mandatory Tender Date if the conditions to the exchange therefor have been satisfied, the Tax-Exempt Obligation, as the case may be, which in either case, evidences a one hundred percent (100%) proportionate ownership interest in the Purchase Agreement and the Payments.

“Owner” or any similar term, when used with respect to an Obligation means Wells Fargo Bank, National Association, or the entities provided in Section 2.9.

“Payments” means all payments required to be paid by the City on any date pursuant to Section 1 of the Purchase Agreement and as set forth in the Schedule to the Purchase Agreement.

“Permitted Investments” means any investment permitted by Section 35-323, Arizona Revised Statutes, or any other investment permitted by applicable law.

“Prime Rate” means, for any date of determination, the rate of interest per annum most recently established by Wells Fargo Bank, National Association in its sole discretion as its “prime rate.” The parties hereto acknowledge that the rate announced by Wells Fargo Bank, National Association as its prime rate is an index or base rate and shall not necessarily be publically announced or be its lowest or best rate charged to its customers or other banks. If at any time (a) Wells Fargo Bank, National Association ceases to exist or (b) Wells Fargo Bank, National Association ceases to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported). Each change in the Prime Rate shall be effective without notice as of the opening of business on the day such change in prime rate occurs.

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

“Resolution” means the resolution of the Mayor and Council of the City adopted on July 27, 2021, authorizing the execution and delivery of the Obligation.

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

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

“State” means the State of Arizona.

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

“**Tax-Exempt Obligation**” means the Excise Tax Revenue Refunding Obligation, Series 2021-2.

“**Taxable Date**” means the date on which the Interest Portion with respect to the Tax-Exempt Obligation is first includable in gross income of an Owner (including, without limitation, any previous Owner) thereof as a result of a Determination of Taxability.

“**Taxable Obligation**” means the Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1.

“**Taxable Rate**” means, for any date of determination, a rate of interest equal to (i) ____% and (ii) one divided by one minus the prevailing maximum federal corporate tax rate in effect on such date of determination.

“**Transfer Amounts**” means amounts of \$250,000 of principal and integral multiples of \$5,000.

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

ARTICLE II SPECIAL REVENUE OBLIGATION

Section 2.1. Authorization of the Obligation. On the Closing Date, the Trustee is hereby authorized and directed by the City to execute and deliver to the Owner, the Taxable Obligation in the form of a single, physically certificated Taxable Obligation, registered in the name of Wells Fargo Bank, National Association in the principal amount of \$____,000, evidencing a one hundred percent (100%) proportionate ownership interest in the Purchase Agreement and the Payments. On the Mandatory Tender Date, subject to the terms of Section 4.5, the Trustee is hereby authorized and directed by the City to execute and deliver to the Owners, the Tax-Exempt Obligation in the form of a single, physically certificated Obligation, registered in the name of the then Owners in the principal amount of \$____,000, evidencing a one hundred percent (100%) proportionate ownership interest in the Purchase Agreement and the Payments, in exchange for the Taxable Obligation. In no event shall the Obligation be deemed a liability, debt or obligation of the Trustee.

Section 2.2. Date; Interest Accrual. The Taxable Obligation shall be dated the Closing Date, and interest with respect to the Taxable Obligation shall be payable from such date or from the most recent Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Obligation and, upon tender and exchange of the Taxable Obligation, to the Mandatory Tender Date. Subject to the effect of the tender and exchange of the Taxable Obligations on the Mandatory Tender Date, the Tax-Exempt Obligation shall be dated the Mandatory Tender Date, and interest with respect to the Tax-Exempt Obligations shall be payable from such date or from the most recent Interest Payment Date to

which interest has previously been paid or made available for payment with respect to the Tax-Exempt Obligation.

Section 2.3. Maturity and Interest Rate. Subject to the effect of the tender and exchange of the Taxable Obligations on the Mandatory Tender Date, principal represented by the Taxable Obligation shall mature on July 1, 20__ and, unless otherwise provided, interest with respect thereto shall be computed at the rate of _____ percent (____%) per annum from the Closing Date (on the basis of 360-day year composed of twelve (12) months of thirty (30) days each); provided, however, that, notwithstanding the foregoing, interest on the Taxable Obligation shall be computed at the Default Rate during the continuance of an event of default hereunder or an Event of Default. If the Taxable Obligation is tendered and exchanged on the Mandatory Tender Date, principal represented by the Tax-Exempt Obligation shall mature on July 1, 20__, and, unless otherwise provided, interest with respect thereto shall be computed at the rate of _____ percent (____%) per annum from the Mandatory Tender Date (on the basis of 360-day year composed of twelve (12) months of thirty (30) days each); provided, however, that, notwithstanding the foregoing, interest on the Tax-Exempt Obligation shall be computed at the Taxable Rate per annum from and after the Taxable Date and shall be computed at the Default Rate during the continuance of an event of default hereunder or an Event of Default.

Section 2.4. Interest on Obligation. Interest on the Obligation shall be payable semiannually on the Interest Payment Dates, to and including the date of maturity or prior redemption of the Obligation. Said interest shall represent the portion of the Payments designated as interest and coming due during the six-month period preceding each Interest Payment Date with respect to the Obligation. The proportionate share of the portion of the Payments designated as interest with respect to any Obligation shall be computed by multiplying the portion of Payments designated as principal with respect to such Obligation by the rate of interest applicable to such Obligation (on the basis of a 360-day year composed of twelve (12) months of thirty (30) days each).

Section 2.5. Form. The Taxable Obligation shall be substantially in the form set forth in Exhibit A hereto. The Tax-Exempt Obligation shall be substantially in the form set forth in Exhibit B hereto. The Obligation shall not be rated by any rating agency or rating service; however, the Obligation may, upon the request of the Owner while it is still the Owner, be assigned a CUSIP number.

Section 2.6. Execution. The Obligation shall be executed by and in the name of the Trustee by the manual signature of an authorized representative of the Trustee. If any representative whose signature appears on the Obligation ceases to be such representative before the Closing Date or the Mandatory Tender Date, as the case may be, such signature shall nevertheless be as effective as if the representative had remained in office until the Closing Date or the Mandatory Tender Date, as the case may be. The Obligation may be executed on behalf of the Trustee by such person as at the actual date of the execution of the Obligation shall be the proper authorized representative of the Trustee although at the nominal date of the Obligation such person shall not have been such authorized representative of the Trustee. The Obligation shall not be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Agreement unless and until executed and delivered by the Trustee. The execution by the Trustee of the Obligation shall be conclusive evidence that the Obligation has

been duly authorized and delivered hereunder and is entitled to the security and benefit of this Agreement.

Section 2.7. [Reserved to Preserve Section Numbering].

Section 2.8. Application of Proceeds. The proceeds received by the Trustee from the sale of the Taxable Obligation shall be held in the “Refunded Obligations Money Fund,” which the Trustee shall establish as a special trust fund and which shall be closed upon the payment provided in the next sentence. Such amount shall be paid on the Closing Date to the Escrow Trustee pursuant to the Escrow Trust Agreement.

Section 2.9. Transfer.

(a) Except for transfers pursuant to subsection (b) below, the Obligation may not be transferred or exchanged except as described in this Section. The Trustee shall, within 30 days after a written request to the City Representative and a Responsible Officer from an authorized representative of the Owner provide for transfer of the Obligation to another party reasonably acceptable to the City Representative which shall then be considered the Owner for all purposes hereof. The City Representative shall provide the Trustee with written notice of the acceptance of such new Owner.

(b) The Owner may, at any time and from time to time, pledge or assign a security interest and enter into participation agreements in accordance with the provisions of subsection (c) below. Without limitation of the foregoing or anything else to the contrary herein, the Owner may, at any time, sell, or otherwise transfer to one or more Bank Transferees, all or a portion of the Obligation in Transfer Amounts. From and after the date of such sale or transfer, the Owner (and its successors) shall continue to have all of the rights of the Owner as if no such transfer or sale had occurred; provided, however, that (A) no such sale or transfer to a Bank Transferee shall in any way affect the obligations of the Owner hereunder, (B) the City and the Trustee shall be required to deal only with the Owner with respect to matters relating to the Owner of the Obligation and (C) in the case of a sale or transfer to a Bank Transferee, only the Owner shall be entitled to enforce rights and remedies as contemplated in Article XII. In addition to the foregoing, the Owner may, at any time, sell or otherwise transfer to one or more Non-Bank Transferees, all or a portion of the Obligation in Transfer Amounts if (A) written notice of such sale or transfer, including that such sale or transfer is to a Non-Bank Transferee, together with addresses and related information with respect to the Non-Bank Transferee, shall have been given to the Trustee by such selling Owner and Non-Bank Transferee and (B) the Non-Bank Transferee shall have delivered to the Trustee and the selling Owner an investment letter in substantially the form delivered by the Owner in connection with the original execution and delivery of the Obligation.

(c) The Owner may at any time pledge or grant a security interest in all or any portion of its rights under the Obligation to secure obligations of the Owner, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release the Owner from any of its obligations hereunder or substitute any such pledgee or assignee for the Owner as a party hereto. The Owner shall also have the right to grant participations in all or a portion of the Owner’s interests in the Obligation to one or

more other banking institutions; provided, however, that the City and the Trustee shall be required to deal only with the Owner with respect to any matters relating to the Obligation and no such participant shall be entitled to enforce rights and remedies as contemplated in Article XII.

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

Section 2.11. Payment.

(a) Payment of interest due related to the Obligation on any Interest Payment Date shall be made to the person appearing on the registration books for the Obligation maintained by the Trustee as the Owner thereof as of the Regular Record Date immediately preceding such Interest Payment Date.

(b) The principal and interest related to the Obligation shall be payable in lawful money of the United States of America.

(c) Interest and principal payable to the Owner (except interest and principal due on July 1, 20__) shall be paid by wire transfer in immediately available funds to an account in the United States of America as directed on the Regular Record Date by the Owner specifying the account address without presentation or surrender of the Obligation except as set forth below. The notice may provide that it shall remain in effect for subsequent payments until otherwise requested in a subsequent written notice. Interest and principal payable to the Owner on July 1, 20__, shall be paid upon presentation and surrender of the Obligation at the Corporate Trust Office.

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

(e) In the event the Obligation is not presented for payment at maturity, if moneys sufficient to pay the principal and interest related to the Obligation have been deposited pursuant hereto for such payment, all liability to the Owner thereof for the payment thereof will forthwith cease and be completely discharged, and thereupon it will be the duty of the Trustee to hold such moneys as provided herein, without liability for interest thereon, for the benefit of the Owner, who will thereafter be restricted exclusively to such moneys, for any claim of whatever nature on his part hereunder or on, or with respect to, the Obligation.

Section 2.12. Execution of Documents and Proof of Ownership.

(a) Any request, direction, consent, revocation of consent or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by the Owner may be in any number of concurrent instruments of similar tenor, and may be signed or executed by the Owner in person or by its attorney or agent appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Obligation. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of the Obligation shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if the fact and date of the execution by the Owner or the attorney or agent thereof of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of his authority.

(b) Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of the Obligation shall bind every future Owner of the Obligation in respect of anything done or suffered to be done by the Trustee in pursuance of such request or consent. The fact of ownership of the Obligation by any person and the amount, the payment date and the number of such Obligation and the date of such person's holding the same shall be provided on the registration books maintained pursuant to Section 2.13.

Section 2.13. Obligation Register. The Trustee will keep or cause to be kept, at the Designated Office, sufficient books for the registration and transfer (including for purposes of Section 2.9) of the Obligation which shall at all times during regular business hours on any Business Day be open to inspection by the City and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the Obligation as hereinbefore provided.

ARTICLE III

[RESERVED TO PRESERVE SECTION NUMBERING]

ARTICLE IV

REDEMPTION OF OBLIGATION; MANDATORY TENDER OF TAXABLE OBLIGATION

Section 4.1. Redemption Provisions.

(a) Principal represented by the Obligation is subject to optional redemption from a prepayment made by the City pursuant to Section 1(c) of the Purchase Agreement, in whole or in part, on any Business Day, at a price equal to the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment, plus a premium, equal to the Breakage Fee.

(b) Principal represented by the Obligation shall be redeemed on July 1 of the years indicated and in the amounts indicated at a price equal to the amount thereof plus interest accrued to the date of redemption, but without premium:

Year Redeemed	Principal Amount Redeemed
20__	
20__ (maturity)	

Section 4.2. Selection of Obligations for Redemption. The City shall, at least forty-five (45) days prior to the redemption date in connection with any optional redemption pursuant to Section 4.1(a) hereof, notify the Trustee of such redemption date of the Obligation.

Section 4.3. Notice of Redemption; Effect.

(a) The Trustee shall cause notice of the optional redemption hereunder to be transmitted electronically to the Owner at the address appearing in the registration books kept for such purpose pursuant to Section 2.13. Such notice shall (1) be sent no more than 60 nor less than 30 calendar days prior to the redemption date, (2) specify with respect to the Obligation the redemption date and the redemption price, (3) set forth the name, address and telephone number of the person from whom information pertaining to the redemption may be obtained and (4) state that on the redemption date the Obligation will be payable at the Designated Office (provided that the redemption price may be payable by wire transfer and without presentment or surrender of the Obligation in accordance with Section 2.11), that from that date interest will cease to accrue.

(b) If at the time of giving of notice of the optional redemption of principal represented by the Obligation, there has not been deposited with the Trustee moneys or Government Obligations sufficient to redeem the Obligation subject to such redemption and the requirements of (d) below are not satisfied, then such notice shall state that the redemption is conditional upon the deposit of moneys or Government Obligations sufficient for the redemption with the Trustee and satisfaction of such requirements not later than the opening of business on the redemption date, and such notice will be of no effect and such Obligation shall not be redeemed unless such moneys or Government Obligations are so deposited and such requirements in (d) below are met.

(c) Notice having been provided in the manner provided in (b) above, the Obligation shall become due and payable on the redemption date and shall be paid at the redemption price, plus accrued interest to the redemption date.

(d) If the money or Government Obligations for the redemption of the Obligation to be redeemed, together with interest accrued thereon to the redemption date, is held by the Trustee on the redemption date, so as to be available therefor on that date, then from and after the redemption date such principal thereof to be redeemed shall cease to bear interest, and, the Obligation no longer shall be considered to be outstanding hereunder. If those moneys shall not be so available on the redemption date, such principal shall continue to bear interest, until paid, at the same rate as they would have borne otherwise.

(e) Moneys deposited in the Payment Fund and held by the Trustee for the redemption of the Obligation shall be held in trust for the account of the Owner and shall be paid when due.

Section 4.4. Partial Redemption of Obligation. Upon surrender of any Obligation redeemed in part only, the Trustee shall execute and deliver to the Owner thereof, at the expense of the City, a new Obligation equal in aggregate principal amount to the unredeemed portion of the Obligation surrendered.

Section 4.5. Mandatory Tender at Option of City. The Taxable Obligation may be mandatorily tendered and exchanged for the Tax-Exempt Obligation, at the option of the City, in whole on the Mandatory Tender Date, upon at least fourteen days' prior written notice

by the City Representative to the Owner and the Trustee of the election by the City to current refund the Taxable Obligation. If such option is exercised, the City shall cause the conditions provided in Section 3.01(b) of the Exchange Agreement to be satisfied in connection with such mandatory tender and exchange. If such conditions are satisfied, the Taxable Obligation will be presented and surrendered to the Trustee on the Mandatory Tender Date at the Corporate Trust Office, and the Trustee shall execute and deliver the Tax-Exempt Obligation and cause the Tax-Exempt Obligation to be exchanged for the Taxable Obligation. One fully registered Tax-Exempt Obligation, in the aggregate principal amount equal to the outstanding principal amount of the Taxable Obligation, shall be delivered to, and registered in the name of, Wells Fargo Bank, National Association or any affiliate thereof, at the direction of Wells Fargo Bank, National Association. The exchange of the Taxable Obligation for the Tax-Exempt Obligation shall be a cashless exchange. The Taxable Obligation returned in exchange for the Tax-Exempt Obligation shall be cancelled by the Trustee. Upon the completion of such mandatory tender and exchange, the Taxable Obligation shall be extinguished. In the event the conditions to the exchange of the Taxable Obligation for the Tax-Exempt Obligation set forth in this Section shall not be satisfied on the Mandatory Tender Date, the exchange shall not occur, the City shall direct the Trustee to immediately return the Taxable Obligation to Wells Fargo Bank, National Association and the Taxable Obligation will remain outstanding.

ARTICLE V PAYMENT FUND

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

Section 5.2. Establishment of Payment Fund. The Trustee shall establish a special trust fund designated as the "City of Sedona Payment Fund" (hereinafter referred to as the "Payment Fund"). So long the Obligation is outstanding, the City shall have no beneficial right or interest in the Payment Fund or the moneys deposited therein, except only as provided in this Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

Section 5.3. Payments by the City; Deposits. Subject to the limitations pursuant to the Purchase Agreement with respect to the Excise Taxes, the City shall be required to make the Payments, taking into account any funds on deposit in the Payment Fund as a credit towards any Payment then due. The Trustee, not less than ten (10) Business Days prior to each Interest Payment Date, shall notify the City of the amount required to be paid after taking into account earnings on investments which will be transferred to the Payment Fund in accordance herewith, on or before such Interest Payment Date for both principal and interest with respect to the Obligation. All amounts received by the Trustee as Payments pursuant to the Purchase Agreement shall be deposited in the Payment Fund.

Section 5.4. Application of Moneys. All amounts in the Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of and interest and redemption premiums, if any, with respect to the Obligation as the same shall become due and payable, in accordance with the provisions of Articles II and IV hereof.

Section 5.5. Transfers of Investment Earnings to Payment Fund. Except as otherwise directed by the City, the Trustee shall, on or before the next Interest Payment Date occurring on July 1, transfer any income or profit on the investment of moneys in the funds hereunder to the Payment Fund.

Section 5.6. Surplus. Any surplus remaining in any of the funds created hereunder, after redemption and payment or provision for redemption and payment of the Obligation, including accrued interest and redemption premium, if any, and payment of any applicable fees, expenses or indemnities to the Trustee, or provision for such redemption and payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

ARTICLE VI
[RESERVED TO PRESERVE SECTION NUMBERING]

ARTICLE VII
MONEYS IN FUNDS; INVESTMENT; CERTAIN TAX COVENANTS

Section 7.1. Held in Trust. The moneys and investments held by the Trustee under this Agreement are irrevocably held in trust for the benefit of the Owner and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Agreement and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the City or the Owner.

Section 7.2. Investments Authorized. Upon written order of the City Representative, moneys held by the Trustee hereunder shall be invested and reinvested by the Trustee, to the maximum extent practicable in Permitted Investments having the highest yield reasonably obtainable, subject to Section 7.6 hereof. The City Representative shall direct such investment in specific Permitted Investments. Such investments, if registrable, shall be registered in the name of the Trustee and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment. The Trustee shall have no obligation to invest and reinvest any cash held by it hereunder in the absence of timely and specific written direction from the City Representative. In no event shall the Trustee be liable for the selection of investments. The Trustee may conclusively rely upon such written direction from the City Representative as to both the suitability and legality of the directed investments. The City acknowledges that regulations of the Comptroller of the Currency grant the City the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the City specifically waives compliance with 12 Code of Federal Regulations

12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

Section 7.3. Accounting. The Trustee shall furnish to the City, not less than semiannually, an accounting (which may be in the form of its customary statement) of all investments made by the Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 7.2 hereof.

Section 7.4. Allocation of Earnings. Any income, profit or loss on such investments shall be deposited in or charged to the respective funds from which such investments were made, and any interest on any deposit of funds shall be deposited in the fund from which such deposit was made, except as otherwise provided herein. At the direction of the City Representative, any such income, profit or interest shall be transferred and applied if necessary to pay amounts due pursuant to section 148 of the Code.

Section 7.5. Valuation and Disposition of Investments. For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at Market Value. The Trustee may sell or present for redemption, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from such investment.

Section 7.6. Limitation of Investment Yield. In the event the City is of the opinion that it is necessary to restrict or limit the yield on the investment of any amounts paid to or held by the Trustee hereunder in order to avoid the Tax-Exempt Obligation being considered an “arbitrage bond” within the meaning of section 148 of the Code, the City Representative may issue to the Trustee a written certificate to such effect (along with appropriate instructions), in which event the Trustee will take such action as is instructed so to restrict or limit the yield on such investment in accordance with the specific instructions contained in such certificate.

Section 7.7. Other Tax Covenants. In consideration of the acceptance and execution of the Purchase Agreement by the Trustee and the purchase by the Owner, from time to time, and in consideration of retaining the exclusion of the portion of each Payment denominated as and comprising interest pursuant to the Purchase Agreement with respect to the Tax-Exempt Obligation and received by the Owner for federal income tax purposes, the City shall, from time to time, neither take nor fail to take any action, which action or failure to act is within its power and authority and would result in such portion of each such Payment becoming subject to inclusion in gross income for federal income tax purposes under either laws existing on the date of execution of the Purchase Agreement or such laws as they may be modified or amended or tax laws later adopted. The City shall comply with such requirement(s) and will take any such action(s) as are necessary to prevent such portion of each such Payment from becoming subject to inclusion in gross income for federal income tax purposes. Such requirements may include but are not limited to making further specific covenants; making truthful certifications and representations and giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements to be prepared

by special counsel; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to the Obligation; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys held pursuant to this Agreement and limiting the use of the proceeds of the Obligation and property financed thereby.

ARTICLE VIII THE TRUSTEE

Section 8.1. Appointment of Trustee. The City hereby authorizes and directs the Trustee to, and the Trustee shall, execute and deliver the Purchase Agreement, as Seller, and receive all moneys required to be deposited with the Trustee hereunder and shall allocate, use and apply the same as provided in this Agreement. The City shall maintain as the Trustee a bank or trust company with a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000), and subject to supervision or examination by federal or State authority, so long as the Obligation is outstanding. If such bank or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 8.1 the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Section 8.2. Liability of Trustee; Standard of Care. Except with respect to its authority and power generally and authorization to execute this Trust Agreement, the recitals of facts, covenants and agreements herein, in the Purchase Agreement and in the Obligation shall be taken as statements, covenants and agreements of the City, and the Trustee assumes no responsibility for the correctness of the same, or makes any representations as to the validity hereof or sufficiency of this Agreement, the Purchase Agreement or the Obligation or shall incur any responsibility in respect hereof or thereof, other than in connection with the duties or obligations herein or in the Obligation assigned to or imposed upon them, respectively. Prior to the occurrence of an Event of Default, or after the timely cure of an Event of Default, the Trustee shall perform only such duties as are specifically set forth in this Trust Agreement and no implied obligations or covenants should be read into this Agreement against the Trustee. After the occurrence of an Event of Default, the Trustee shall exercise such of the rights and powers vested in it, and use the same degree of care and skill in such exercise, as a prudent person would exercise under the circumstances in the conduct of its own affairs.

Section 8.3. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall be eligible under Section 8.1 hereof, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 8.4. Protection and Rights of the Trustee.

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

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

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

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

(e) No provision in this Trust Agreement shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability (including, without limitation, any and all environmental liability) in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it.

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

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

(h) Notwithstanding any provision in this Trust Agreement or the Purchase Agreement to the contrary, the Trustee shall not be required to take notice or be deemed to have notice of an Event of Default, except an Event of Default under Section 10(a)(i)(A) of the Purchase Agreement, unless a Responsible Officer of the Trustee has actual notice thereof or is specifically notified in writing of such default by the City or the Owner.

(i) The Trustee shall accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

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

(k) The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the execution and delivery of the Obligation.

(l) The permissive right of the Trustee to do things enumerated in this Agreement shall not be construed as a duty, and the Trustee shall not be answerable for other

than its negligence or willful default. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the Refinanced Projects.

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

(n) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owner relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement.

Section 8.5. Compensation of Trustee. The City shall from time to time, as agreed upon between the City and the Trustee, pay to the Trustee reasonable compensation for its services, including but not limited to advances to, and reasonable fees and expenses of, independent appraisers, accountants, consultants, counsel, agents and attorneys-at-law or other experts employed by it in the exercise and performance of its powers and duties hereunder. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 8.6. Removal and Resignation of Trustee(a) The City (but only if no Event of Default has occurred and is continuing) or the Owner, at any time upon thirty (30) days' prior written notice, and for any reason, may remove the Trustee and any successor thereto, but any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal or State authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or the requirements of any supervising or examining authority above referred to, then, for the purposes of this Section, the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) The Trustee may at any time resign by giving written notice to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor trustee by an instrument in writing; provided, however, that in the event that the City does not appoint a successor trustee within thirty (30) days following receipt of such notice of resignation, the resigning Trustee may petition the appropriate court having jurisdiction to appoint a successor trustee. Any resignation or removal of the Trustee and appointment of a successor trustee shall become effective upon acceptance of appointment by the successor trustee. The Trustee and the City shall execute any documents reasonably required to effect the transfer of

rights and obligations of the Trustee to the successor trustee subject, however, to the terms and conditions herein set forth, including, without limitation, the right of the predecessor Trustee to be paid and reimbursed in full for its reasonable charges and expenses (including reasonable fees and expenses of its counsel) and the indemnification under Sections 8.4 and 11.3 hereof. Upon such acceptance, the successor trustee shall mail notice thereof to the Owner at its address set forth on the registration books for the Obligation maintained pursuant to Section 2.13 hereof.

Section 8.7. Appointment of Agent. The Trustee may appoint an agent or agents to exercise any of the powers, rights or remedies granted to the Trustee under this Trust Agreement and to hold title to property or to take any other action which may be desirable or necessary.

Section 8.8. Commingling. The Trustee may commingle any of the funds held by it pursuant to this Trust Agreement in a separate fund or funds for investment purposes only; provided, however, that all funds or accounts held by the Trustee hereunder shall be accounted for separately notwithstanding such commingling by the Trustee.

Section 8.9. Records. The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Trust Agreement, which shall be available for inspection by the City, or any of its agents, at any time, upon reasonable prior notice, during regular business hours. The Trustee shall provide the City Representative with semiannual reports of funds transactions and balances.

ARTICLE IX MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 9.1. Amendments Permitted.

(a) This Agreement and the rights and obligations of the Owner, and the Purchase Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental or amending agreement which shall become effective when the written consent of the Owner shall have been filed with the Trustee. No such modification or amendment shall modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental or amending agreement shall become effective as provided in Section 9.2 hereof.

(b) This Agreement and the rights and obligations of the Owner, and the Purchase Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental or amending agreement, without the consent of the Owner, but only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein reserved to the Trustee (for its own behalf) or the City, (2) to secure additional revenues or provide additional security or reserves for payment of the Obligation, (3) to comply with the requirements of any state or federal securities laws or the Trust Indenture Act of 1939, as from time to time amended, if required by law or regulation lawfully issued thereunder, (4) to provide for the appointment of a successor trustee pursuant to the terms hereof, (5) to preserve the exclusion of the interest on the Obligation from gross income for purposes of federal or State income taxes and to preserve the power of the City

to continue to issue bonds or other obligations the interest on which is likewise exempt from federal and State income taxes, (6) to cure, correct or supplement any ambiguous or defective provision contained herein or therein or (7) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not materially adversely affect the interests of the Owner as evidenced by an opinion of counsel delivered by the City to the Trustee. Any such supplemental or amending agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be. The Trustee may rely upon an opinion of Independent Counsel which is also nationally recognized bond counsel as conclusive evidence that any such supplemental or amending agreement complies with this Section.

Section 9.2. Procedure for Amendment With Written Consent of Obligation Owner.

(a) This Agreement and the Purchase Agreement may be amended by supplemental or amending agreement as provided in this Section in the event the consent of the Owner is required pursuant to Section 9.1 hereof. A copy of such supplemental or amending agreement, together with a request to the Owner for its consent thereto, shall be mailed by the Trustee to the Owner.

(b) Such supplemental or amending agreement shall not become effective unless there shall be filed with the Trustee the written consent of the Owner and a notice shall have been mailed as hereinafter in this Section provided.

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

Section 9.3. [Reserved to Preserve Section Numbering].

Section 9.4. Effect of Supplemental Agreement. From and after the time any supplemental or amending agreement becomes effective pursuant to this Article IX, this Agreement or the Purchase Agreement, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and the Owner, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental or amending agreement shall be deemed to be part of

the terms and conditions of this Agreement or the Purchase Agreement, as the case may be, for any and all purposes.

Section 9.5. Endorsement or Replacement of Obligations Delivered After Amendments. The Trustee may determine that any Obligation delivered after the effective date of any action taken as provided in this Article shall bear a notation, by endorsement or otherwise, in form approved by the Trustee, as to such action. In that case, upon demand of the Owner, a suitable notation shall be made on such Obligation. The Trustee may determine that the delivery of a substitute Obligation, so modified as in the opinion of the Trustee is necessary to conform to the Owner's action, which substitute Obligation shall thereupon be prepared, executed and delivered. In that case, upon demand of the Owner, such substitute Obligation shall be exchanged at the Designated Office of the Trustee, without cost to the Owner, for an Obligation of the same character then outstanding, upon surrender of the Owner's Obligation.

Section 9.6. Amendatory Endorsement of Obligations. The provisions of this Article shall not prevent the Owner from accepting any amendment or supplement, provided that proper notation thereof is made on the Obligation.

ARTICLE X COVENANTS, NOTICES

Section 10.1. Compliance With and Enforcement of Purchase Agreement. The City shall perform all obligations and duties imposed on it under the Purchase Agreement and shall not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be an Event of Default. The City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting any such action will deliver the same, or a copy thereof, to the Trustee.

Section 10.2. Observance of Laws and Regulations. The City shall well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, including its right to exist and carry on business as a political subdivision, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 10.3. Recordation and Filing. The City shall file this Agreement (or a memorandum thereof or a financing statement with respect thereto), and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Owner.

Section 10.4. Further Assurances. The Trustee and the City shall make, execute and deliver any and all such further resolutions, instruments and assurances as may be

reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement and the Purchase Agreement and for the better assuring and confirming unto the Owner the rights and benefits provided herein.

Section 10.5. Notification to the City of Failure to Make Payments. The Trustee shall notify the City of any failure by the City to make any Payment or other payment required under the Purchase Agreement to be made to the Trustee, in writing and within one (1) Business Day of any such failure. Such notice shall not be a prerequisite for the occurrence of an Event of Default.

Section 10.6. Business Days. Except as otherwise required herein, if this Agreement requires any party to act on a specific day and such day is not a Business Day, such party need not perform such act until the next succeeding Business Day, and such act shall be deemed to have been performed on the day required.

Section 10.7. Providing Budgets and Audits. The City shall provide notice to the Owner (as long as the Owner is Wells Fargo Bank, National Association or any Bank Transferee) when the audited financial statements of the City for the preceding Fiscal Year (within 270 days of the end of each Fiscal Year) and annual budgets of the City for the succeeding Fiscal Year are available on the website of the City (within 60 days of the end of each Fiscal Year). Upon request and to the extent available, the City shall provide such other financial information to the Owner (as long as the Owner is Wells Fargo Bank, National Association or any Bank Transferee) as requested thereby. Notwithstanding any other provision of this Agreement, failure of the City to comply with this Section shall not be considered an event of default; however, the Trustee may (and, at the request of Owner and receipt of indemnity to its satisfaction, shall) take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section.

ARTICLE XI LIMITATION OF LIABILITY

Section 11.1. Limited Liability of the City. Except for the payment of Payments from the Excise Taxes when due in accordance with the Purchase Agreement and the performance of the other covenants and agreements of the City contained in the Purchase Agreement and herein, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owner with respect to this Agreement or the terms, execution, delivery or transfer of the Obligation or the distribution of Payments to the Owner by the Trustee.

Section 11.2. No Liability of the City for Trustee Performance. The City shall have no obligation or liability to any of the other parties or to the Owner with respect to the performance by the Trustee of any duty imposed upon it under this Agreement.

Section 11.3. Indemnification of the Trustee.

(a) To the extent permitted by law, the City shall indemnify and save the Trustee, in its capacity as the Trustee and the Seller, and its officers, directors, agents and

employees, harmless for, from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of: (i) the use, maintenance, condition or management of, or from any work or thing done on, the Refinanced Projects or the sites of the Refinanced Projects or any portion thereof or interest therein by the City; (ii) any breach or default on the part of the City in the performance of any of its obligations under this Agreement and any other agreement made and entered into for purposes of the Refinanced Projects or any interest therein; (iii) any act of negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Refinanced Projects; (iv) any act of negligence of any assignee of, or purchaser from, the City or of any of its or their agents, contractors, servants, employees or licensees with respect to the Refinanced Projects; (v) the construction or acquisition of the Refinanced Projects or any interest therein; (vi) the actions of any other party, including but not limited to the operation or use of the Refinanced Projects or the sites of the Refinanced Projects or interest therein by the City; (vii) the ownership of the Refinanced Projects or the sites of the Refinanced Projects or interest therein or (viii) the exercise and performance by the Trustee of its powers and duties hereunder, under the Purchase Agreement or the Obligation or in connection with any document or transaction contemplated herewith or therewith, including the costs and expenses of defending itself against any claim of liability arising under this Trust Agreement. No indemnification will be made under this Section or elsewhere in this Agreement for willful misconduct, negligence or breach of duty under this Agreement by the Trustee, or by its officers, agents, employees, successors or assigns. As security for the payment of amounts under Section 8.5 and this Section 11.3, the Trustee shall be secured under this Agreement by a lien prior to the Obligation. The obligations of the City hereunder for indemnification under this Section shall remain valid and binding notwithstanding, and shall survive, the maturity and payment or redemption of the Obligation or resignation or removal of the Trustee or the termination of this Agreement.

(b) The Trustee, promptly after determining that any event or condition which requires or may require indemnification by the City hereunder exists or may exist, or after receipt of notice of the commencement of any action in respect of which indemnity may be sought hereunder, shall notify the City in writing of such circumstances or action (the "Notification"). Failure to give such notification shall not affect the right of the Trustee to receive the indemnification provided for herewith. Upon giving of the Notification, the Trustee shall cooperate fully with the City in order that the City may defend, compromise or settle any such matters or actions which may result in payment by the City hereunder. The City shall give the Trustee notice of its election within fifteen (15) days after receiving the Notification whether the City, at its sole cost and expense, shall represent and defend the Trustee in any claim or action which may result in a request for indemnification hereunder. If the City timely gives the notice that it will represent and defend the Trustee thereafter, the Trustee shall not settle or compromise or otherwise interfere with the defense or undertakings of the City hereunder. The City shall not settle or compromise any claim or action against the Trustee without the written approval of the Trustee, except to the extent that the City shall pay all losses and the Trustee shall be fully released from such claim or action. If the City either fails to timely give its notice or notifies the Trustee that the City will not represent and defend the Trustee, the Trustee may defend, settle, compromise or admit liability as it shall determine in the reasonable exercise of its discretion. In the event the City is required to and does indemnify the Trustee as herein provided, the rights of the City shall be subrogated to the rights of the Trustee to recover such losses or damages from any other person or entity.

Section 11.4. Opinion of Counsel. Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, the Trustee shall be absolutely protected in relying thereon.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES OF OWNER

Section 12.1. Seller's Rights Held in Trust. As provided herein, the Trustee holds in trust hereunder all of the Seller's rights in and to the Purchase Agreement, including without limitation all of the Seller's rights to exercise such rights and remedies conferred on the Seller pursuant to the Purchase Agreement as may be necessary or convenient to enforce payment of the Payments and any other amounts required to be deposited in the Payment Fund and enforcement of the pledge of the Excise Taxes for the payment of the Obligation.

Section 12.2. Remedies Upon Default; No Acceleration. If an Event of Default shall happen, then and in each and every such case during the continuance of such Event of Default, the Trustee may, and upon request of the Owner shall, exercise one or more of the remedies granted pursuant to the Purchase Agreement; provided, however, that notwithstanding anything herein or in the Purchase Agreement to the contrary, there shall be no right under any circumstances to accelerate the maturity of the Obligation or otherwise to declare any of the Payments not then past due or in default to be immediately due and payable.

Section 12.3. Application of Funds. All moneys received by the Trustee pursuant to any right given or action taken pursuant to the provisions of this Article XII or Section 10 of the Purchase Agreement shall be applied by the Trustee in the order following upon presentation of the Obligation, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the fees, costs and expenses of the Trustee and then of the Owner in declaring such Event of Default, including reasonable compensation to its or their agents, attorneys and counsel;

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

Section 12.4. Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written

request of the Owner, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owner by a suit in equity or action at law for the specific performance of any covenant or agreement contained herein.

Section 12.5. Non-waiver. Except as otherwise provided in this Article, the Owner has the right to institute suit to enforce and collect the Payments as provided in the Purchase Agreement. No delay or omission of the Trustee or of the Owner to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article to the Trustee or the Owner may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owner.

Section 12.6. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owner, it shall have full power, in the exercise of its discretion for the best interests of the Owner, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, without the consent of the Owner.

Section 12.7. Limitation on Owner's Right to Sue.(a) The Owner shall not have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Agreement, unless (i) the Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default hereunder; (ii) the Owner shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (iii) the Owner shall have tendered to the Trustee indemnity satisfactory to it against the costs, expenses, and liabilities to be incurred in compliance with such request and (iv) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee. Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by the Owner of any remedy hereunder.

ARTICLE XIII MISCELLANEOUS

Section 13.1. Defeasance.

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

(i) By paying or causing to be paid the principal of and interest and redemption premium, if any, with respect to such Obligation, as and when the same become due and payable;

(ii) By depositing with a Depository Trustee, in trust for such purpose, at or before maturity, money which, together with the amounts then on deposit in the Payment Fund is fully sufficient to pay or cause to be paid the Obligation, including all principal, interest and redemption premium, if any; or

(iii) By depositing with a Depository Trustee, in trust for such purpose, any Government Obligations which are noncallable in such amount as shall be certified to the Trustee and the City by a national firm of certified public accountants acceptable to the City, as being fully sufficient, together with the interest to accrue thereon and moneys then on deposit in the Payment Fund together with the interest to accrue thereon, to pay and discharge or cause to be paid and discharged the Obligation (including all principal, interest and redemption premium, if any) at their respective maturity or prior redemption dates, which deposit may be made in accordance with the provisions of Section 8 of the Purchase Agreement;

notwithstanding that the Obligation shall not have been surrendered for payment, all obligations of the Trustee and the City with respect to the Obligation shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid, from funds deposited pursuant to subsections (ii) or (iii) of this Section and paid to the Trustee by the Depository Trustee, to the Owner all sums due with respect thereto, and in the event of deposits pursuant to subsections (ii) or (iii), the Obligation shall continue to represent direct and proportionate interests of the Owner in such funds.

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

(c) Any portion of the Obligation may be paid and discharged as provided in this Section; provided however, that if the Obligation or portion thereof is to be redeemed, notice of such redemption shall have been given in accordance with the provisions hereof or the City shall have submitted to the Trustee instructions expressed to be irrevocable as to the date upon which such Obligation or portion thereof is to be redeemed and as to the giving of notice of such redemption; and provided further, that if the Obligation or portion thereof will not mature within sixty (60) days of the deposit referred to in subsections (ii) or (iii) of this Section, the Trustee shall give notice of such deposit Electronically to the Owner.

(d) No Obligation may be provided for as described in this Section if, as a result thereof, or of any other action in connection with which the provisions for payment of such Obligation is made, the interest payable on any Obligation is thereby made includable in gross income for federal income tax purposes. The Trustee, the Depository Trustee, and the City may rely upon an opinion of Independent Counsel which is nationally recognized bond counsel to the effect that the provisions of this subsection will not be breached by so providing for the payment of the Obligation.

Section 13.2. Records. The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Agreement, which shall be available for inspection by the City and the Owner, or the agent of any of them, at any time during regular business hours.

Section 13.3. Notices. All written notices to be given under this Agreement shall be given by mail or personal delivery to the party entitled thereto at its address set forth below with respect to the City and the Trustee and as provided in the Obligations Register with respect to the Owner, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective upon deposit in the United States of America mail, postage prepaid or, in the case of personal delivery, upon delivery to the address set forth below or in the Obligations Register, as the case may be:

If to the City: City of Sedona, Arizona
102 Roadrunner Drive
Sedona, Arizona 86336
Attention: City Manager

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

Section 13.4. Incorporation of State Statutes.

(a) As required by the provisions of Section 38-511, Arizona Revised Statutes, notice is hereby given that the City may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time. The Trustee covenants not to employ as an employee, an agent or, with respect to the subject matter of this Trust Agreement, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating this Trust Agreement on behalf of the City within three years from the execution of this Trust Agreement, unless a waiver of Section 38-511, Arizona Revised Statutes, is provided by the City. No basis exists for the City to cancel this Trust Agreement pursuant to Section 38-511, Arizona Revised Statutes, as of the date hereof.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, the Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the “e-verify” requirements under Section 23-214(A), Arizona Revised Statutes. The breach by the Trustee of the foregoing shall be deemed a material breach of this Trust Agreement and may result in the termination of the services of the Trustee. The City retains the legal right to randomly inspect the papers and records of the Trustee to

ensure that the Trustee is complying with the above-mentioned warranty. The Trustee shall keep such papers and records open for random inspection during normal business hours by the Trustee. The Trustee shall cooperate with the random inspections by the City including granting the City entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential.

(c) Pursuant to Section 35-393 et. seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this 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 13.5. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Arizona.

Section 13.6. Binding Effect and Successors. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Agreement either the City or the Trustee is named or referred to, such reference shall be deemed to include successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 13.7. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

Section 13.8. Destruction of Cancelled Obligation. Whenever in this Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the City of the Obligation, the Trustee may destroy the Obligation and deliver a certificate of such destruction to the City instead.

Section 13.9. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement. All references herein to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 13.10. Parties Interested Herein. Nothing in this Trust Agreement or the Obligation, expressed or implied, is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Trustee and the Owner, any legal or equitable right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, provisions and agreements in this Trust Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee and the Owner.

Section 13.11. Waiver of Notice. Whenever in this Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 13.12. Severability of Invalid Provisions. In case any one or more of the provisions contained in this Agreement or in the Obligation shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Obligation pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

[Signature page follows.]

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

**U.S. BANK NATIONAL ASSOCIATION, as
Trustee**

By _____
Authorized Representative

THE CITY OF SEDONA, ARIZONA

By _____
Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, City Clerk

EXHIBIT A

(Form of Taxable Obligation)

Number:

Principal Amount:

THIS OBLIGATION MAY ONLY BE TRANSFERRED BY THE REGISTERED OWNER
HEREOF IN ACCORDANCE WITH THE TRANSFER RESTRICTIONS SET FORTH IN
SECTION 2.9 OF THE HEREINAFTER DEFINED TRUST AGREEMENT

EXCISE TAX REVENUE REFUNDING OBLIGATION, TAXABLE SERIES 2021-1

Evidencing a Proportionate Interest of the Owner
Hereof in Purchase Payments to be Made by

THE CITY OF SEDONA, ARIZONA

to

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

<u>Interest Rate:</u>	<u>Maturity Date:</u>	<u>Dated Date:</u>	<u>CUSIP:</u>
____%	July 1, 20__	August 13, 2021

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

THIS IS TO CERTIFY THAT the registered owner identified above, or registered assigns, as the registered owner of this Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1 (this "Obligation") is the owner of all of the interests in the right to receive certain "Payments" under and defined in that certain Third Purchase Agreement, dated as of August 1, 2021 (the "Purchase Agreement"), by and between (the "Trustee"), and the City of Sedona, Arizona, a municipal corporation and a political subdivision existing under the laws of the State of Arizona (the "City"), which Payments and other rights and interests under the Purchase Agreement are held by the Trustee in trust under that certain Third Trust Agreement, dated as of August 1, 2021 (the "Trust Agreement"), by and between the City and the Trustee. The Trustee maintains a corporate trust office for payment and transfer of this Obligation (the "Designated Office").

The registered owner of this Obligation is entitled to receive, subject to the terms of the Purchase Agreement, on the maturity date set forth above, the principal amount set forth above and to receive semiannually on January 1 and July 1 of each year commencing _____, 20__ (the "Interest Payment Dates"), until payment in full of said portion of principal or redemption prior thereto, the portion of the Payments designated as interest coming due during the period commencing on the last date on which interest was paid and ending on the day prior to

the Interest Payment Date or, if no interest has been paid, from the Dated Date specified above and, upon tender and exchange hereof, to the Mandatory Tender Date (subject to adjustment during the continuance of an event of default under the Purchase Agreement or an event of default under the Trust Agreement as provided in the Trust Agreement). Said interest is the result of the multiplication of said principal by the interest rate per annum set forth above. Interest shall be calculated on the basis of a 360-day year composed of twelve (12) months of thirty (30) days each.

Principal and interest represented by this Obligation are payable in lawful money of the United States of America as provided in the Trust Agreement, except that the final payment of principal and interest, when due, will be paid upon surrender of this Obligation at the Designated Office.

The Trustee has no obligation or liability to the registered owner of this Obligation for the payment of interest or principal pertaining to this Obligation. The Trustee's sole obligations are to administer, for the benefit of the registered owner of this Obligation, the various funds and accounts established pursuant to the Trust Agreement.

This Obligation has been executed and delivered by the Trustee pursuant to the terms of the Trust Agreement. The City is authorized to enter into the Purchase Agreement and the Trust Agreement under the laws of the State of Arizona and by a resolution of the Mayor and Council of the City adopted on July 27, 2021. Reference is hereby made to the Purchase Agreement and the Trust Agreement (copies of which are on file at the Designated Office) for further definitions, a description of the terms on which this Obligation is delivered, the rights thereunder of the registered owner of this Obligation, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Purchase Agreement (including with respect to certain obligations secured and to be secured on a parity with the security for the Payments and to certain limitations on such security), to all of the provisions of which Purchase Agreement and Trust Agreement the registered owner of this Obligation, by acceptance hereof, assents and agrees. (The recitals, statements, covenants and representations made in this Obligation shall be taken and construed as made by and on the part of the City, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.)

The Obligation is payable from payments to be made by the City pursuant to the Purchase Agreement. To secure the Payments required to be paid by the City pursuant to the provisions of the Purchase Agreement (and any obligations issued or which could be issued on a parity with the requirement to make payments from such amounts as provided in the Purchase Agreement), the City has pledged for the payment of the Payments all excise taxes, transaction privilege (sales, license and use) taxes, vehicle license fees, plan review deposit fees, building permit fees, conditional use permit fees, development review fees, franchise fees, fines and forfeitures which the City now collects and which it may collect in the future, together with the City's portion of any excise taxes, transaction privilege (sales and use) taxes and income taxes imposed and collected by the State of Arizona, or any political subdivision thereof, or any other governmental unit or agency, and returned, allocated or apportioned to the City, EXCEPT (i) any such taxes, fees, fines and forfeitures which the City has enacted or may enact in the future which must be used or expended by the City for specific purposes, and (ii) any such taxes which,

by State law, rule or regulation must be expended for specific purposes, such as motor vehicle fuel taxes.

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

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

For further definitions, a more complete statement of the income and revenues from which, and conditions under which, this Obligation is payable, the conditions under which additional obligations have been and may be authorized and issued on a parity herewith, a statement of the terms under which the Trust Agreement or the Purchase Agreement may be modified or supplemented and a statement of the general covenants and provisions pursuant to which this Obligation is issued, reference is made to the Trust Agreement and the Purchase Agreement. (To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement and the Purchase Agreement may be amended by the parties thereto with the written consent of the owner of this Obligation then, and may be amended without such consent under certain circumstances but in no event such that the interest of the owner of this Obligation is adversely affected, provided that no such amendment shall impair the right of the owner to receive in any case the owner's proportionate share of any Payment thereof in accordance with this Obligation.)

This Obligation is executed and delivered only in fully registered, physically certificated form and shall not be transferable or exchangeable, except as provided in the Trust Agreement.

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

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

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

Principal represented by this Obligation may be optionally redeemed as provided in Section 4.1(a) of the Trust Agreement.

Principal represented by this Obligation shall be redeemed on July 1 of the years indicated and in the principal amounts indicated at a price equal to the amount thereof plus interest accrued to the date of redemption, but without premium:

Year Redeemed	Principal Amount Redeemed
20__	
20__ (maturity)	

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

If at the time of mailing of the notice of redemption there has not been deposited with the Trustee moneys or eligible securities sufficient to redeem and other requirements set forth in the Trust Agreement are not met, such notice shall state that it is conditional, subject to the deposit of moneys sufficient for the redemption and satisfaction of such conditions. If the principal of this Obligation is subject to redemption and if on the redemption date moneys for the redemption thereof are held by the Trustee and those other conditions are met, thereafter such principal to be redeemed shall cease to bear interest, and shall cease to be secured by, and shall not be deemed to be outstanding under, the Trust Agreement. The failure to receive any notice of redemption, or any defect in such notice in respect of this Obligation, shall not affect the validity of redemption of this Obligation.

This Obligation may be mandatorily tendered and exchanged for the Tax-Exempt Obligation (as defined in the Trust Agreement), at the option of the City, in whole on any date on or after April 1, 2022, upon at least fourteen (14) days' prior written notice to the Registered Owner and the Trustee by the City of its election to current refund the Taxable Obligation (as defined in the Trust Agreement).

It is hereby certified, recited and declared that all conditions, acts and things required by the Constitution and laws of the State of Arizona to happen, to be done, to exist and to be performed precedent to and in the execution and delivery of this Obligation have happened, have been done, do exist and have been performed in regular and due form and time as required by law.

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

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

Date of Execution:

....., as
Trustee

By.....
Authorized Representative

EXHIBIT B

(Form of Tax-Exempt Obligation)

Number:

Principal Amount:

THIS OBLIGATION MAY ONLY BE TRANSFERRED BY THE REGISTERED OWNER
HEREOF IN ACCORDANCE WITH THE TRANSFER RESTRICTIONS SET FORTH IN
SECTION 2.9 OF THE HEREINAFTER DEFINED TRUST AGREEMENT

EXCISE TAX REVENUE REFUNDING OBLIGATION, SERIES 2021-2

Evidencing a Proportionate Interest of the Owner
Hereof in Purchase Payments to be Made by

THE CITY OF SEDONA, ARIZONA

to

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

<u>Interest Rate:</u>	<u>Maturity Date:</u>	<u>Dated Date:</u>	<u>CUSIP:</u>
____%	July 1, 20__	August 13, 2021

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

THIS IS TO CERTIFY THAT the registered owner identified above, or registered assigns, as the registered owner of this Excise Tax Revenue Refunding Obligation, Series 2021-2 (this "Obligation") is the owner of all of the interests in the right to receive certain "Payments" under and defined in that certain Third Purchase Agreement, dated as of August 1, 2021 (the "Purchase Agreement"), by and between (the "Trustee"), and the City of Sedona, Arizona, a municipal corporation and a political subdivision existing under the laws of the State of Arizona (the "City"), which Payments and other rights and interests under the Purchase Agreement are held by the Trustee in trust under that certain Third Trust Agreement, dated as of August 1, 2021 (the "Trust Agreement"), by and between the City and the Trustee. The Trustee maintains a corporate trust office for payment and transfer of this Obligation (the "Designated Office").

The registered owner of this Obligation is entitled to receive, subject to the terms of the Purchase Agreement, on the maturity date set forth above, the principal amount set forth above and to receive semiannually on January 1 and July 1 of each year commencing ____ 1, 20__ (the "Interest Payment Dates"), until payment in full of said portion of principal or redemption prior thereto, the portion of the Payments designated as interest coming due during the period commencing on the last date on which interest was paid and ending on the day

prior to the Interest Payment Date or, if no interest has been paid, from the Dated Date specified above (subject to adjustment during the continuance of an event of default under the Purchase Agreement or an event of default under the Trust Agreement or upon the occurrence of a Determination of Taxability (as defined in the Trust Agreement) as provided in the Trust Agreement). Said interest is the result of the multiplication of said principal by the interest rate per annum set forth above. Interest shall be calculated on the basis of a 360-day year composed of twelve (12) months of thirty (30) days each.

Principal and interest represented by this Obligation are payable in lawful money of the United States of America as provided in the Trust Agreement, except that the final payment of principal and interest, when due, will be paid upon surrender of this Obligation at the Designated Office.

The Trustee has no obligation or liability to the registered owner of this Obligation for the payment of interest or principal pertaining to this Obligation. The Trustee's sole obligations are to administer, for the benefit of the registered owner of this Obligation, the various funds and accounts established pursuant to the Trust Agreement.

This Obligation has been executed and delivered by the Trustee pursuant to the terms of the Trust Agreement. The City is authorized to enter into the Purchase Agreement and the Trust Agreement under the laws of the State of Arizona and by a resolution of the Mayor and Council of the City adopted on July 27, 2021. Reference is hereby made to the Purchase Agreement and the Trust Agreement (copies of which are on file at the Designated Office) for further definitions, a description of the terms on which this Obligation is delivered, the rights thereunder of the registered owner of this Obligation, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Purchase Agreement (including with respect to certain obligations secured and to be secured on a parity with the security for the Payments and to certain limitations on such security), to all of the provisions of which Purchase Agreement and Trust Agreement the registered owner of this Obligation, by acceptance hereof, assents and agrees. (The recitals, statements, covenants and representations made in this Obligation shall be taken and construed as made by and on the part of the City, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.)

The Obligation is payable from payments to be made by the City pursuant to the Purchase Agreement. To secure the Payments required to be paid by the City pursuant to the provisions of the Purchase Agreement (and any obligations issued or which could be issued on a parity with the requirement to make payments from such amounts as provided in the Purchase Agreement), the City has pledged for the payment of the Payments all excise taxes, transaction privilege (sales, license and use) taxes, vehicle license fees, plan review deposit fees, building permit fees, conditional use permit fees, development review fees, franchise fees, fines and forfeitures which the City now collects and which it may collect in the future, together with the City's portion of any excise taxes, transaction privilege (sales and use) taxes and income taxes imposed and collected by the State of Arizona, or any political subdivision thereof, or any other governmental unit or agency, and returned, allocated or apportioned to the City, EXCEPT (i) any such taxes, fees, fines and forfeitures which the City has enacted or may enact in the future which must be used or expended by the City for specific purposes, and (ii) any such taxes which,

by State law, rule or regulation must be expended for specific purposes, such as motor vehicle fuel taxes.

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

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

For further definitions, a more complete statement of the income and revenues from which, and conditions under which, this Obligation is payable, the conditions under which additional obligations have been and may be authorized and issued on a parity herewith, a statement of the terms under which the Trust Agreement or the Purchase Agreement may be modified or supplemented and a statement of the general covenants and provisions pursuant to which this Obligation is issued, reference is made to the Trust Agreement and the Purchase Agreement. (To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement and the Purchase Agreement may be amended by the parties thereto with the written consent of the owner of this Obligation then, and may be amended without such consent under certain circumstances but in no event such that the interest of the owner of this Obligation is adversely affected, provided that no such amendment shall impair the right of the owner to receive in any case the owner's proportionate share of any Payment thereof in accordance with this Obligation.)

This Obligation is executed and delivered only in fully registered, physically certificated form and shall not be transferable or exchangeable, except as provided in the Trust Agreement.

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

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

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

Principal represented by this Obligation may be optionally redeemed as provided in Section 4.1(a) of the Trust Agreement.

Principal represented by this Obligation shall be redeemed on July 1 of the years indicated and in the principal amounts indicated at a price equal to the amount thereof plus interest accrued to the date of redemption, but without premium:

Year Redeemed	Principal Amount Redeemed
20__	
20__ (maturity)	

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

If at the time of mailing of the notice of redemption there has not been deposited with the Trustee moneys or eligible securities sufficient to redeem and other requirements set forth in the Trust Agreement are not met, such notice shall state that it is conditional, subject to the deposit of moneys sufficient for the redemption and satisfaction of such conditions. If the principal of this Obligation is subject to redemption and if on the redemption date moneys for the redemption thereof are held by the Trustee and those other conditions are met, thereafter such principal to be redeemed shall cease to bear interest, and shall cease to be secured by, and shall not be deemed to be outstanding under, the Trust Agreement. The failure to receive any notice of redemption, or any defect in such notice in respect of this Obligation, shall not affect the validity of redemption of this Obligation.

It is hereby certified, recited and declared that all conditions, acts and things required by the Constitution and laws of the State of Arizona to happen, to be done, to exist and to be performed precedent to and in the execution and delivery of this Obligation have happened, have been done, do exist and have been performed in regular and due form and time as required by law.

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

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

Date of Execution:

....., as
Trustee

By.....
Authorized Representative

EXHIBIT C

(Breakage Fee Calculation)

Upon the occurrence of a Break Event, the Breakage Fee shall be calculated and paid as follows:

“*Break Date*” means any date that an optional redemption is made in accordance with Section 4.1.

“*Break Event*” means any optional redemption.

“*Calculation Agent*” will be Wells Fargo Bank, National Association. If for any reason Wells Fargo Bank, National Association is unable or unwilling to calculate the Breakage Fee, the Calculation Agent shall be an independent financial advisor or investment banker appointed by the City with the consent of the Purchaser.

“*Day Count Fraction*” is the anticipated basis on which interest at the Fixed Rate is to be computed on each of the Obligations. The Day Count Fraction utilizes a 360-day year and consisting of twelve 30-day months.

“*Maturity Date*” means July 1, 2026.

“*Rate*” means the **[Insert Rate%]**.

“*Scheduled Due Date*” means each date specified on the Amortization Schedule attached as Schedule I hereto.

“*Schedule of Principal Amount*” is the anticipated principal amount of the Obligations scheduled to be outstanding on the date the Obligation is funded and on the Scheduled Due Date. The Schedule of Principal Amounts for the Scheduled Due Dates is specified on the Amortization Schedule attached as Schedule I hereto.

1. In connection with any Break Event, a Breakage Fee shall be paid by the City if the Breakage Fee is a positive number. No Breakage Fee shall be payable for a Break Event if the Breakage Fee for that Break Event is a negative number. Breakage Fees will be determined by the Calculation Agent, on the Business Day next preceding any Break Date and will be calculated for the Obligations as follows:

“*Breakage Fee*” for any Break Event is the difference of:

- (i) the sum of the present values of a series of amounts computed for each Scheduled Due Date after the Break Date through the Maturity Date for the Obligation, each of which amounts is equal to the product of (A) the Affected Principal Amount for the Affected Principal Period ending on the Scheduled Due

Date, times (B) the Rate, times (C) the Day Count Fraction for such Affected Principal Period,

minus

(ii) the sum of the present values of a series of amounts computed for each Scheduled Due Date after the Break Date through the Maturity Date for the Obligation, each of which amounts is equal to the product of (A) the Affected Principal Amount for the Affected Principal Period ending on the Scheduled Due Date, times (B) the Break Rate, times (C) the Day Count Fraction for such Affected Principal Period,

where:

(1) the Calculation Agent computes such present values by discounting each such series of amounts described in clause (i) and (ii) above from the Scheduled Due Date to the Break Date using a series of discount factors corresponding to the Scheduled Due Date as determined by the Calculation Agent from the swap yield curve that the Calculation Agent would use as of the Break Date in valuing a series of fixed rate interest rate swap payments similar to such series of amounts;

(2) the “*Affected Principal Amount*” for an Affected Principal Period is the principal amount of the Obligations reflected in the Schedule of Principal Amounts scheduled to be outstanding during that Affected Principal Period determined as of the relevant Break Date by the reference to such Schedule of Principal Amounts before giving effect to any Break Event on that Break Date, and for any Break Event, multiplying each such principal amount times the Prepayment Fraction;

(3) “*Affected Principal Period*” is each period from and including a Scheduled Due Date to but excluding the next succeeding Scheduled Due Date; provided, however, if the Break Date is not a Scheduled Due Date, the initial Affected Principal Period shall be the period from and including the Break Date to but excluding the next succeeding Scheduled Due Date and the Affected Principal Period for such initial Affected Principal Period shall be the amount stated in the Schedule of Principal Amounts outstanding for the Scheduled Due Date next preceding the Break Date;

(4) “*Prepayment Fraction*” means, for each Scheduled Due Date, a fraction the numerator of which is the amount of the credit to be applied pursuant to the applicable provisions of the Obligation and the Trust Agreement to reduce the amount of the prepayment otherwise due on such date and the denominator of which is the amount of the payment otherwise due on such date (without regard to such credit); and

(5) “*Break Rate*” means, for any Break Date, and with respect to each Obligation, the fixed rate the Calculation Agent determines is representative of what swap dealers would be willing to pay to the Calculation Agent (or, if required to be cleared under the Commodity Exchange Act or a Commodity Futures Trading Commission rule or regulation promulgated thereunder, to a swap clearinghouse) as fixed rate payors on a semi-annual basis in return for receiving one-month LIBOR (or such alternate rate index designated for use in lieu of LIBOR by the International Swaps and Derivatives Association) based payments monthly under interest rate swap transactions that would commence on such Break Date, and mature on, or as close as commercially practicable to, the Maturity Date for such Obligation;

2. The Calculation Agent shall determine the Breakage Fee hereunder in good faith using such methodology as the Calculation Agent deems appropriate under the circumstance, and the Calculation Agent’s determination shall be conclusive and binding in the absence of manifest error.

SCHEDULE I

AMORTIZATION SCHEDULE

<u>Scheduled Date</u> ¹	<u>Schedule of Principal Amounts</u>
January 1, 2022	\$ _____
July 1, 2022	\$ _____
January 1, 2023	\$ _____
July 1, 2023	\$ _____
January 1, 2024	\$ _____
July 1, 2024	\$ _____
January 1, 2025	\$ _____
July 1, 2025	\$ _____
January 1, 2026	\$ _____
July 1, 2026	\$ _____

¹ Such table to include the Interest Payment Dates as well as the principal payment dates.

ESCROW TRUST AGREEMENT

by and between

THE CITY OF SEDONA, ARIZONA

and

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Trustee

Dated as of August 1, 2021

ESCROW TRUST AGREEMENT

THIS ESCROW TRUST AGREEMENT, dated as of August 1, 2021 (this “Agreement”), by and between **THE CITY OF SEDONA, ARIZONA**, a municipal corporation under the laws of the State of Arizona (the “City”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association authorized to exercise trust powers under the laws of the State of Arizona, as escrow trustee (the “Trustee”),

WITNESSETH:

WHEREAS, the following Excise Tax Revenue Obligations, Series 2012, evidencing undivided proportionate interests of the owners thereof in lease payments to be made by City pursuant to a Lease Agreement, dated as of February 1, 2012 (the “2012 Lease Agreement”), have been executed and delivered and are outstanding and being redeemed on the dates and in the amounts indicated (the “Refunded Obligations”):

Maturity Dates of Refunded Obligations (July 1)	Principal Amounts Outstanding	Principal Amounts to Be Prepaid	Redemption Date (July 1)	CUSIP Nos. (81567L)
2025	\$4,105,000	\$4,105,000	2022	CX4
2026	4,290,000	4,290,000	2022	CY2

; and

WHEREAS, pursuant to the 2012 Lease Agreement, the City may provide for prepayment of the payments due with respect to the 2012 Lease Agreement by depositing with the Trustee, in trust for such purpose, any Federal Securities (as such term and other undefined terms used in this recital are defined in in the 2012 Lease Agreement) which are noncallable, in such amount as will, in the opinion of an independent certified public accountant, together with the interest to accrue thereon and moneys then on deposit in the Lease Payment Fund be fully sufficient to pay all unpaid Lease Payments to exercise the purchase option describe in the 2012 Lease Agreement on any Prepayment Date; and

WHEREAS, the Mayor and Council of the City, by resolution adopted on July 27, 2021 (the “Resolution”), has authorized the execution and delivery of a certain Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1 (the “Refunding Obligation”), a portion of which is being issued to provide funds to be used to refund the Refunded Obligations; and

WHEREAS, the Trustee agrees to accept and administer the trust created hereby which is to be irrevocable with respect to the safekeeping and handling of the moneys and securities to be held in trust for the payment of the Refunded Obligations;

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 August 13, 2021 (the “Delivery Date”), there was deposited (i) cash in the amount of \$_____ (the “Initial Cash Deposit”), (ii) cash in the amount of \$_____ (the “Costs of Issuance Deposit”), and (iii) the securities (the “Securities”) described in the report of _____, independent certified public accountants regarding the Refunded Obligations (the “Special Report”), all of which are and shall be only Federal Securities (or additional funds which are either proceeds of the sale of the Refunding Obligation or funds of the City sufficient to permit the Trustee to purchase the Securities on the Delivery Date), to be held by the Trustee in a special and separate trust fund, designated as the “City of Sedona, Arizona Obligations Prepayment (2012) Trust Fund” (the “Trust Fund”).

(1) There is hereby created in the Trust Fund a separate account to be known and referred to herein as the “Refunded Obligations Account.” The Initial Cash Deposit and the Securities shall be deposited in the Refunded Obligations Account immediately upon receipt thereof by the Trustee. As determined in the Special Report, the maturing principal amount of the Securities, together with the scheduled interest thereon and the Initial Cash Deposit are sufficient to assure that the amounts available in the Refunded Obligations Account will be sufficient to pay when due the interest on and the principal of the Refunded Obligations as the same are paid or prepaid.

(2) There is hereby created in the Trust Fund a separate account to be known and referred to herein as the “Expenses Account.” The Costs of Issuance Deposit shall be deposited immediately in the Expenses Account upon receipt thereof by the Trustee. The Trustee shall use the amounts in the Expenses Account to pay the expenses set forth in the Exhibit hereto upon the presentation of appropriate invoices for payment thereof. The amount in the Expenses Account not disbursed by the Trustee before or on December 1, 2021, shall be paid to the City for payment of amounts due pursuant to the Refunding Obligation.

Section 2. (A) The Trustee shall, at all times, hold the Initial Cash Deposit and the Securities in the Refunded Obligations Account for the account of the City and for the benefit of the registered owners of the Refunded Obligations, and shall maintain the Trust Fund wholly segregated from other funds and securities on deposit with the Trustee, shall never commingle the Initial Cash Deposit and the Securities with other funds or securities of the Trustee and shall never at any time use, loan or borrow the same in any way so that sufficient funds shall be available to pay the interest requirements of the Refunded Obligations as the same accrue and become due and payable from time to time and to pay the principal of the Refunded Obligations as the same shall become due and payable on the dates the Refunded Obligations are to be paid or redeemed as set forth in the Special Report (collectively, the “Payment Schedules”).

[() Use of SLGS before Mandatory Tender Date. The Trustee shall reinvest cash balances held in the Refunded Obligations Account, to the extent not required for the payment of the principal of and interest on the Refunded Obligations on such date, in United States Treasury Certificates of Indebtedness, State and Local Government Series (“SLGS”), at a zero percent (0.0%) interest rate, maturing on the next succeeding semiannual debt service payment date for the Refunded Obligations (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 Refunded Obligations Account 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 the Fiscal Service. Such rules and regulations currently require that a subscription for purchase of the investment be submitted at least 15 (or, for subscriptions of less than \$10,000,000, five) but no more than 60 days prior to the date of investment. If the Department of the Treasury (or the Bureau of the Fiscal Service) of the United States suspends the sale of SLGS causing the Trustee to be unable to purchase SLGS, then the Trustee will take the following actions: On the date the Trustee would have purchased SLGS had the Trustee been able to do so, the Trustee shall, to the extent available, purchase non-callable and non-prepayable obligations issued or guaranteed as to full and timely payment by the United States of America maturing no more than 90 days after the date of purchase and having a positive yield (the "Alternate Investments"). The purchase price of the Alternate Investments shall be as close as possible to the principal amount of the SLGS that would have been purchased on such date if they had been available for purchase and shall in no event be more than the amount payable at such maturity on such investment. The Trustee shall purchase each Alternate Investment at a price no higher than the fair market value of the Alternate Investment and shall maintain records demonstrating compliance with this requirement. On the maturity of each Alternate Investment, the Trustee shall pay the difference between the total of the receipts on the Alternate Investment and the purchase price of the Alternate Investment to the City with a notice to the City that such amount may be required to be paid to the Internal Revenue Service pursuant to Internal Revenue Service Revenue Procedure 95-47. The City agrees that, promptly upon the City's receipt of notice from the Trustee, the City will contact nationally recognized bond counsel to review the purchase of Alternate Investments and to prepare the necessary forms, if any, to be filed relating to such payment. If the Alternate Investments mature more than 29 days prior to the next succeeding interest payment date on the Refunded Obligations on which such proceeds will be needed to pay principal of and premium, if any, and interest on the Refunded Obligations, the Trustee shall treat such amounts as an invested balance available for reinvestment and shall take all reasonable steps to invest such amounts in SLGS (or additional Alternate Investments as provided in this Section). The Trustee shall hold balances not so invested in accordance with Section 4 hereof.]

() 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 Management Services Director of the City to do so and receipt by the parties hereto and the City of (1) an opinion in form and substance satisfactory to them from a nationally recognized bond counsel selected by the City to the effect that such action will not affect adversely the status of the interest on the Refunded Obligations or the Refunding Obligation for federal income tax purposes and will not affect adversely the right of the City to issue obligations the interest on which is excludable from gross income for federal income tax purposes and (2) a report from a nationally recognized accountant or firm of accountants verifying the accuracy of the arithmetic computations of the adequacy of the proceeds from the liquidation together with any other moneys and the maturing principal of and interest on the Substitute Securities to be credited to the Trust Fund, to pay when due the interest on the Refunded Obligations and the principal of the Refunded Obligations as they become due at maturity or upon prior redemption. Upon any such sale or redemption of investments and

reinvestment, any amounts not needed in the Trust Fund to provide for payments on the Refunded Obligations, as shown by such accountant's report, may be withdrawn from the Trust Fund at the direction of the City, returned to the City and applied for the benefit of the City in accordance with applicable law.

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

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

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

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

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

Section 5. (A) The Trustee shall make timely payments from the Refunded Obligations Account to U.S. Bank National Association, as the trustee for the Refunded Obligations (the "2012 Trustee"), in the amounts and on the dates necessary to permit the payment when due as set forth in the Payment Schedules of the principal of and interest on the Refunded Obligations as the same become due and payable or when the Refunded Obligations are to be redeemed.

(B) The City hereby irrevocably instructs the Trustee to, and the Trustee shall, as soon as possible, cause notice of the prepayment of the Refunded Obligations to be provided in the form and by the means required by the Trust Agreement, dated as of February 1, 2012 (the "2012 Trust Agreement"), by and among the 2012 Trustee, as trustee, the 2012 Trustee, as lessor, and the City, as Lessee.

(C) The City further hereby irrevocably instructs the 2012 Trustee, for and on behalf of the City, to cause notice of prepayment of the Refunded Obligations to be provided in the form and by the means required by the 2012 Trust Agreement.

(D) Any costs incurred in mailing the notices described in (B) and (C) hereinabove may be billed to the City.

Section 6. If, at any time or times, there are insufficient funds on hand in the Refunded Obligations Account for the payment of the principal of and interest on the Refunded Obligations as the same become due, or for the payment of the fees and expenses of the Trustee, the Trustee shall promptly notify the City of such deficiency by telephone and by registered first class mail, postage prepaid.

Section 7. On or before each February 15 and August 15 during the term of this Agreement, the Trustee shall submit to the City a report covering all moneys it has received and all payments it has made under the provisions hereof during the six-month period ending on the preceding July 1 or January 1. Each such report also shall list all investments and moneys on deposit with the Trustee as of the date of the report.

Section 8. For its services hereunder, the Trustee shall receive the sum of \$_____ upon the date of delivery of the Refunding Obligation. The Trustee shall not make claim upon or expect payment from any amounts held hereunder for payment of any other amounts due or claimed to be due to the Trustee.

Section 9. When all amounts payable on the Refunded Obligations have become due and the 2012 Trustee has on deposit all moneys necessary for the payment of such amounts, the Trustee shall on the business day next succeeding the date the last of the Refunded Obligations is prepaid, transfer all moneys and investments credited to the Refunded Obligations Account in excess of the amounts needed to pay the amounts payable on the Refunded Obligations to the City to be applied for the benefit of the City in accordance with applicable law.

Section 10. The registered owners of the Refunded Obligations have a beneficial interest in the Trust Fund. It is therefore expressly recited, understood and agreed by the parties hereto that this Agreement shall not be revoked and shall not be amended in any manner which may adversely affect the rights herein sought to be protected until the provisions of this Agreement have been fully carried out.

Section 11. 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 Refunded Obligations or the Refunding Obligation. 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 default in the performance of any obligation imposed upon it under the terms of this Agreement. The Trustee shall not be liable or responsible for any loss resulting from any investment made pursuant to this Agreement in compliance with the provisions hereof.

Section 12. The Auditor General of the State of Arizona and the City shall have the right to audit the books, records and accounts of the Trustee insofar as they pertain to the Trust Fund.

Section 13. Except as otherwise provided herein, neither this Agreement or the Trust Fund may be assigned by the Trustee without the prior written consent of the City unless the Trustee is required by law to divest itself of its interest in its corporate trust department or unless the Trustee sells or otherwise assigns all or substantially all of its corporate trust business, in which event the Trust Fund shall be continued by the successor in interest of the Trustee. 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 Agreement and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases hereof may be held to be illegal, invalid or unenforceable. If any provision hereof contains any ambiguity which may be construed as either valid or invalid, the valid construction shall be adopted. In construing this Agreement, it should be noted that the Refunding Obligation and, if tendered and exchanged for the Refunding Obligation, the Tax-Exempt Obligation (as such term is defined in the Resolution) are intended to be obligations the interest on which is excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the provisions hereof should be construed to permit that result.

Section 15. Notice shall be sufficient hereunder, if it is contained in a writing to the City at 102 Roadrunner Drive, Sedona, Arizona 86336, Attention: Finance Director or to the Trustee at 101 North First Avenue, Suite 1600, Phoenix, Arizona 85003, Attention: Global Corporate Trust, 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, or is provided by facsimile means in a form acceptable to the recipient.

Section 16. This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Arizona. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other with respect to the subject matter hereof, and no party hereto has made or shall be bound by any agreement or any representation to any other party which is not expressly set forth in this Agreement.

Section 17. (A) To the extent applicable by provision of law, the Trustee acknowledges that this Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated herein and which provides that the

City may within three years after its execution cancel any contract (including this Agreement) without penalty or further obligation made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

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

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

Section 18. This Agreement may be executed in several counterparts, each of which shall be an original, all of which together shall constitute but one instrument.

Section 19. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Signature page follows.]

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

CITY OF SEDONA, ARIZONA, a municipal corporation and political subdivision under the laws of the State of Arizona

By _____
Sandra J. Moriarty, Mayor

ATTEST:

By _____
Susan L. Irvine, City Clerk

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By _____
Authorized Representative

ACKNOWLEDGED BY U.S. BANK NATIONAL ASSOCIATION, as the 2012 TRUSTEE

By _____
Authorized Representative

[Signature page to Escrow Trust Agreement]

EXHIBIT

COSTS AND EXPENSES RELATED TO THE
REFUNDING OBLIGATION
AND THE CREATION AND IMPLEMENTATION
OF THE TRUST ESTABLISHED TO
SECURE THE PAYMENT OF THE REFUNDED OBLIGATIONS

The following expenses are to be paid by the Trustee from \$_____ deposited
with the Trustee for that purpose:

Placement Agent
Special Counsel.....
Purchaser's Counsel.....
Trustee.....
Verification Agent
Escrow Trustee.....
Miscellaneous

Total Expenses \$ _____

PURCHASE AND EXCHANGE AGREEMENT

between

CITY OF SEDONA, ARIZONA

and

WELLS FARGO BANK, NATIONAL ASSOCIATION

Relating to

**CITY OF SEDONA, ARIZONA
EXCISE TAX REVENUE REFUNDING OBLIGATION,
TAXABLE SERIES 2021-1**

Dated [August 13, 2021]

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PURCHASE AND EXCHANGE AGREEMENT

THIS PURCHASE AND EXCHANGE AGREEMENT is dated [August 13, 2021] (this “Agreement”), by and between the **CITY OF SEDONA, ARIZONA** and **WELLS FARGO BANK, NATIONAL ASSOCIATION**. All capitalized terms used herein and not otherwise defined shall have the meanings assigned in Section 1.01 or as otherwise provided in Section 1.02.

W I T N E S E T H:

WHEREAS, pursuant to the resolution of the Mayor and Council of the City adopted on [July 27, 2021] (the “Resolution”), the City has approved the execution and delivery of the Obligations and the execution and delivery of this Agreement;

WHEREAS, each of the Obligations is to be executed and delivered pursuant to a Third Trust Agreement dated as of July 1, 2021 (the “Trust Agreement”), between U.S. Bank National Association, as trustee (the “Trustee”) and the City and a Third Purchase Agreement to be dated as of July 1, 2021 (the “Purchase Agreement” and, together with the Trust Agreement, the “City Documents”), between the City and the Trustee, in its separate capacity as seller, and the Obligations shall have the terms set forth in Exhibit A and Exhibit B of this Agreement;

WHEREAS, the initial Obligation to be executed and delivered shall be the Taxable Obligation and, subject to the satisfaction of certain conditions set forth herein and in the Trust Agreement shall be subject to mandatory tender on or after [April 1, 2022] at the option of the City in exchange for the Tax-Exempt Obligation; and

WHEREAS, the Purchaser, pursuant hereto, is providing a commitment to purchase the Taxable Obligation when executed and delivered and to exchange such Taxable Obligation on the mandatory tender date, in each case, in compliance with the requirements and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, including the covenants, terms and conditions hereinafter contained, and to induce the Purchaser to purchase the Taxable Obligation, the Purchaser and the City agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to terms defined at other places in this Agreement, the following defined terms are used throughout this Agreement with the following meanings:

“*Affiliate*” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under common control with such Person. Without limiting the foregoing, the definition of “affiliate” of any Person shall include any subsidiary of such Person and, with respect to the Purchaser, shall include Wells Fargo Securities (a trade name) and Wells Fargo Municipal Capital Strategies, LLC.

“*Agreement*” means this Purchase and Exchange Agreement.

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

“*City*” means the City of Sedona, Arizona.

“*City Documents*” has the meaning assigned to such term in the recitals.

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

“*Closing Date*” means [August 13, 2021], subject to the satisfaction of the conditions precedent set forth in Section 3.01(a).

“*Code*” has the meaning assigned in the Trust Agreement.

“*Event of Default*,” in relation to this Agreement, shall have the meaning assigned to such term in Section 10 of the Purchase Agreement.

“*Investor Letter*” means the investor letter of the Purchaser to be delivered to the City on the Closing Date pursuant to Section 3.02(b) hereof in substantially the form of Exhibit C to that certain Placement Agent Agreement dated [August __, 2021], between the City and Stifel, Nicolaus & Company, Incorporated, as placement agent.

“*Mandatory Tender Date*” means the date on which the Taxable Obligation is subject to mandatory tender at the option of the City which shall be on or after [April 1, 2022] as designated by the City in writing to the Purchaser pursuant to Section 4.5 of the Trust Agreement and, subject to the satisfaction of the conditions precedent set forth in Section 3.01(b), the date on which the Taxable Obligation is exchanged for the Tax-Exempt Obligation.

“*Obligation*” means either the Taxable Obligation or, on and after the Mandatory Tender Date if the conditions to the exchange have been satisfied, and the exchange has occurred, the Tax-Exempt Obligation.

“*Owner*” means the registered owner of the Obligation.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107 56 (signed into law October 26, 2001).

“*Person*” means any individual, corporation, not for profit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

“*Property*” means, when used in connection with any Person, any and all rights, title and interests of such Person in and to any and all property (including cash) whether real, personal or mixed, or tangible or intangible, and wherever situated.

“*Purchase Agreement*” has the meaning assigned to such term in the recitals.

“*Purchase Price*” has the meaning assigned in Section 2.01(a).

“*Purchaser*” means Wells Fargo Bank, National Association, and its successors and assigns.

“*Resolution*” has the meaning assigned to such term in the recitals.

“*Special Counsel*” means Greenberg Traurig, LLP.

“*State*” means the State of Arizona.

“*Tax-Exempt Obligation*” means the Excise Tax Revenue Refunding Obligation, Series 2021-2 in the form attached as Exhibit B to the Trust Agreement.

“*Taxable Obligation*” means the Excise Tax Revenue Refunding Obligations, Taxable Series 2021-1 in the form attached as Exhibit A to the Trust Agreement.

“*Trust Agreement*” has the meaning assigned to such term in the recitals.

“*Trustee*” has the meaning assigned to such term in the recitals.

Section 1.02. Incorporation of Certain Definitions by Reference. Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Trust Agreement, unless the context otherwise requires. In the event of any conflict between the terms and provisions of this Agreement and the provisions of the Trust Agreement, the provisions of the Trust Agreement shall be controlling.

ARTICLE II

PURCHASE OF OBLIGATIONS

Section 2.01. Execution of this Agreement; Purchase of Obligations.

(a) ***Purchase Price.*** Upon the terms and conditions set forth in Section 3.01(a) hereof and based on the representations, warranties and covenants of the City set forth herein and in the City Documents, the Purchaser hereby agrees to purchase from the City and the City hereby agrees to cause to be delivered to the Purchaser, the Taxable Obligation at the purchase price of **[\$8,455,000]** representing the aggregate principal amount of the Taxable Obligation (the “Purchase Price”). The Taxable Obligation shall have those terms set forth in Exhibit A hereto and those set forth in the City Documents.

(b) **Closing Date.** On the Closing Date, the City shall deliver to the Purchaser the documents described in and satisfy the conditions set forth in Section 3.01(a). Upon delivery of such documents and satisfaction of such conditions, the Purchaser will pay the Purchase Price in immediately available federal funds at the direction of the City. One fully registered Taxable Obligation, in the aggregate principal amount equal to the Purchase Price, shall be delivered to and registered in the name of the Purchaser, and shall be delivered at the direction of the Purchaser.

(c) **Mandatory Tender Date and Exchange.** On the Mandatory Tender Date, the City shall deliver to the Purchaser the documents described in and satisfy the conditions set forth in Section 3.01(b). Upon delivery of such documents and satisfaction of such conditions, the Taxable Obligation will be tendered to the Trustee in accordance with Section 4.5 of the Trust Agreement and the City will execute (and direct the Trustee to execute and deliver) the Tax-Exempt Obligation and cause the Tax-Exempt Obligation to be exchanged for the Taxable Obligation. The Tax-Exempt Obligation shall have those terms set forth in Exhibit B hereto and those set forth in the City Documents. One fully registered Tax-Exempt Obligation, in the aggregate principal amount equal to the outstanding principal amount of the Taxable Obligation, shall be delivered to and registered in the name of the Purchaser, at the direction of the Purchaser. The exchange of the Taxable Obligation for the Tax-Exempt Obligation shall be a cashless exchange. The Taxable Obligation returned in exchange for the Tax-Exempt Obligation shall be cancelled by the Trustee.

In the event the conditions to the exchange of the Taxable Obligation for the Tax-Exempt obligation set forth in Section 3.01(b) hereof shall not be satisfied on the Mandatory Tender Date, the exchange shall not occur and the City shall direct the Trustee to immediately return the Taxable Obligation to the Purchaser and such Taxable Obligation will remain outstanding.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01. Conditions Precedent to Closing and Exchange. The Purchaser has entered into this Agreement in reliance upon the representations, warranties and covenants of the City contained herein and the documents and instruments to be delivered on the Closing Date and upon the agreement of the City to perform its obligations hereunder and thereunder. Accordingly, the Purchaser's obligation under this Agreement to purchase and pay for the Taxable Obligation shall be subject to the performance by the City of its obligations to be performed hereunder and under such other documents and instruments to be delivered at or prior to the Closing Date, including the following conditions:

(a) **Conditions to be Satisfied upon Closing Date.** The following conditions shall be satisfied on the Closing Date:

(i) On or prior to the Closing Date, the Purchaser shall have received the following documents in form and substance reasonably satisfactory to the Purchaser:

(A) the opinion(s) of Special Counsel in form and substance satisfactory to the Purchaser, addressing the due authorization, execution, adoption, delivery and enforceability of this Agreement, the Resolution and the City Documents and the validity of the Obligations, dated the Closing Date and addressed to the Purchaser or with a letter permitting the Purchaser to rely on such opinion(s);

(B) an executed original of this Agreement, the Trust Agreement and the Purchase Agreement;

(C) the Taxable Obligation in physical form and registered in the name of the Purchaser;

(D) certified copies of the Resolution and all proceedings of the City relating to approvals or authorizations for the Taxable Obligation and the execution and delivery of this Agreement;

(E) a certificate signed by a City Representative, certifying that on and as of the Closing Date (1) the City is in compliance with all of the terms, provisions and conditions each covenant and any other material provision of the City Documents and any contract entered into in connection with any indebtedness secured by or payable from Excise Taxes; (2) all requirements and preconditions to the execution, delivery and purchase of the Taxable Obligation shall have been satisfied; (4) each representation and warranty of the City in this Agreement is true and correct in all material respects as though made on and as of the Closing Date, (5) no Event of Default has occurred and is continuing or would result from the execution or performance of this Agreement and the City Documents or the execution and delivery of the Taxable Obligation; (6) no petition by or against the City has at any time been filed under the Bankruptcy Code or under any similar State or federal law and (7) the names and signatures of the persons authorized to sign on behalf of the City and all of the City Documents executed on the Closing Date; and

(F) such additional certificates, instruments, opinions or other documents as the Purchaser may reasonably request.

(b) ***Conditions to Exchange on the Mandatory Tender Date.*** The following conditions to the exchange of the Taxable Obligation for the Tax-Exempt Obligation shall be satisfied on the Mandatory Tender Date:

(i) The Purchaser shall receive the following:

(A) From Special Counsel, an approving opinion in the form of Exhibit C hereto; and

(B) a certificate signed by a City Representative certifying that on and as of the Mandatory Tender Date: (1) each of the representations and warranties of the City set forth in this Agreement and the City Documents is true and correct in all material respects as of the Mandatory Tender Date, (2) all requirements and preconditions to the execution, delivery and exchange of the Taxable Obligation for the Tax-Exempt Obligation shall have been satisfied; and (3) no Event of Default has occurred and is continuing.

Section 3.02. Additional Conditions Precedent.

(a) On or prior to the Closing Date, the City shall have paid all costs and expenses incurred in connection with the execution and delivery of this Agreement, the City Documents and any other documents delivered in connection with any of the foregoing including, but not limited to, the fees and expenses of counsel for the Purchaser.

(b) On or prior to the Closing Date, the City shall have received an executed original of the Investor Letter from the Purchaser.

ARTICLE IV

REPRESENTATION AND WARRANTIES

Section 4.01. The City represents and warrants to the Purchaser as follows:

(a) The City (a) is a political subdivision of the State of Arizona and is validly existing under the laws of the State of Arizona under and pursuant to the Constitution of the State of Arizona and (b) has all governmental power and authority, and all governmental licenses, authorizations, consents and approvals, to conduct its own business and to execute, deliver and perform its obligations under this Agreement and the City Documents.

(b) No consent, approval, authorization or order of any court or governmental body is required for the performance by the City of its obligations under the City Documents.

(c) Neither the execution and delivery of the this Agreement or the City Documents, nor compliance with the provisions thereof, or the execution and delivery of the Obligations conflicts with or will result in a material breach of or default under (i) any indenture, mortgage, commitment, note or other agreement or instrument to which the City is a party or by which it is bound or (ii) to the best of the City's knowledge, any other law, rule, regulation or ordinance or judgment, order or decree of any court or governmental agency or body having jurisdiction over the City or any of its activities or properties.

(d) (i) The City has taken all action required to be taken by it to authorize the execution and delivery of the Taxable Obligation and the performance of its obligations thereunder, (ii) the City has full legal right, power and authority to enter into this Agreement and the City Documents and to perform its obligations hereunder and thereunder, and (iii) this Agreement and the City Documents have been duly authorized and (assuming due authorization, execution and delivery by, and enforceability against, the other parties thereto) when executed, constitute valid and binding obligations of the City enforceable against the City in accordance with their respective terms, subject to equitable principles, bankruptcy, insolvency and similar laws and public policy limiting the right to indemnification.

(e) To the best knowledge of the City, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, or for which actual notice has been received, or, threatened against or affecting the City (or, to the knowledge of the City, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the City from functioning, or contesting or questioning the existence of the City or the titles of the present officers of the City to their offices or (ii) wherein an unfavorable decision, ruling or finding would adversely effect (A) the existence or powers of the City, (B) the exclusion of interest on the Tax-Exempt Obligation from the gross income of the recipients thereof pursuant to the Code, (C) the transactions contemplated by this Agreement and the City Documents, or (D) the validity or enforceability of this Agreement and the City Documents or any agreement or instrument to which the City is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or by the aforesaid documents.

(f) The audited financials of the City as of June 30, 2020, and the related statement of revenues and expenses and changes in financial position for the Fiscal Year then ended and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Purchaser, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the City for such dates and for such periods and since such there has been no material and adverse change upon the business, assets, liabilities, condition or operations of the City.

ARTICLE V

MISCELLANEOUS

Section 5.01. Amendments and Waivers. No amendment or waiver of any provision of this Agreement or consent to any departure by the City from any such provision shall in any event be effective unless the same shall be in writing and signed by the Purchaser. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In the event any agreement contained in this Agreement should be breached by the City and thereafter waived by the Purchaser, such waiver shall be limited to the particular breach so waived for the specific period set out in such waiver and such waiver shall not constitute a waiver of such breach for any other period and shall not waive any other or similar breach hereunder.

Section 5.02. Counterparts. This Agreement may be signed in any number of counterpart copies (and by different parties on different counterparts), each of which shall constitute an original but all such copies shall constitute one and the same instrument.

Section 5.03. Notices. All notices, requests, demands, directions and other communications (collectively “notices”) under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be properly addressed and sent by registered or certified mail or by express courier for next Business Day delivery and shall be deemed received as follows: (a) if by registered or certified mail, five (5) days after mailing; (b) if by express courier, on the next Business Day; and (c) if by facsimile, when confirmation of transmission is obtained if prior to 5:00 p.m. local time on a Business Day, and otherwise, on the next Business Day; provided that service of a notice prescribed by any applicable law shall be considered complete when the requirements of such applicable law are met. Notices by electronic mail (e mail) shall not constitute notice under this Agreement and are only to be used in addition to notice given as prescribed under subsections (a), (b) or (c) of this Section. All notices shall be sent to the applicable party at the following address or in accordance with the last unrevoked written direction from such party to the other party hereto and the Trustee:

if to the City, addressed to it at:

City of Sedona, Arizona
102 Roadrunner Drive
Sedona, Arizona 86336
Attention: City Manager

or if to the Purchaser, addressed to it at:

Wells Fargo Bank, National Association
c/o Wells Fargo Bank, National Association
100 W. Washington Street, 20th Floor
Phoenix, Arizona 85003
Attention: Stephanie Jordan-Slider

The Purchaser may in its sole discretion rely on any notice (including telephone communication or e mail communication) purportedly made by or on behalf of the City or the Trustee, but it shall have no duty to accept any notice not given as prescribed in this Section and shall have no duty to verify the identity or authority of the person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

Section 5.04. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Section 5.05. Governing law. THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND TOGETHER WITH ANY DISPUTES OR CONTROVERSIES ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE AND APPLICABLE FEDERAL LAW, WITHOUT REGARD TO CHOICE OF LAW RULES.

Nothing in this Section shall affect the right of the Purchaser to serve legal process in any other manner permitted by law or affect the right of the Purchaser to bring any suit, action or proceeding against the City or its Property in the courts of any other jurisdiction.

Section 5.06. Complete and Controlling Agreement. This Agreement and the City Documents completely set forth the agreements between the Purchaser and the City and fully supersede all prior agreements, both written and oral, between the Purchaser and the City relating to all matters set forth herein and in the City Documents.

Section 5.07. Patriot Act. The Purchaser hereby notifies the City that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that is necessary for the Purchaser to identify the City in accordance with the requirements of the Patriot Act. The City hereby agrees that it shall promptly provide such information upon request by the Purchaser.

Section 5.08. No Advisory or Fiduciary Responsibility. In connection with all aspects of the transactions contemplated by this Agreement and the City Documents (including in connection with any amendment, waiver or other modification of this Agreement or of any City Document), the City acknowledges and agrees that: (a)(i) any arranging, structuring and other services regarding this Agreement and the City Documents provided by the Purchaser or any affiliate of the Purchaser are arm's length commercial transactions between the City on the one hand, and the Purchaser and any affiliate of the Purchaser on the other hand, (ii) the City has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the City is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement and the City Documents; (b)(i) the Purchaser and each affiliate of the Purchaser is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the City or any other Person and (ii) neither the Purchaser nor any affiliate of the Purchaser has any obligation to the City with respect to the transactions contemplated by this Agreement and the City Documents, except those obligations expressly set forth herein; and (c) the Purchaser and each affiliate of the Purchaser may be engaged in a broad range of transactions that involve interests that differ from those of the City, and neither the Purchaser nor any affiliate of the Purchaser has any obligation to disclose any of such interests to the City. To the fullest extent permitted by applicable laws, the City hereby waives and releases any claims that it may have against the Purchaser and each affiliate of the Purchaser with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the transactions contemplated by this Agreement and the City Documents.

Section 5.09. Contractual Interpretation. The parties acknowledge that they have read and fully understand the terms of this Agreement, have consulted with such attorneys, accountants, advisors, or other professionals as they have deemed appropriate prior to executing this Agreement with adequate opportunity and time for review thereof, and are fully aware of its contents and of its legal effect. Accordingly, neither this Agreement nor any ambiguity herein shall be construed against any party on the grounds that such party drafted this Agreement and instead, this Agreement shall be interpreted as though drafted equally by all parties.

Section 5.10. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts”, if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 5.11. Notice of A.R.S. Section 38-511 – Cancellation of Contracts. As required by the provisions of A.R.S. Section 38-511, as amended, notice is hereby given that the City may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the State of Arizona, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State of Arizona, its political subdivisions, or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The State of Arizona, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State of Arizona, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract. No basis exists for the City to cancel this Agreement pursuant to A.R.S. Section 38-511 as of the Closing Date.

Section 5.12. Legal Arizona Workers Act Compliance Arizona A.R.S. Section 41-4401. The parties warrant that at all times during the term of this Agreement they will comply with all state and federal immigration laws applicable to the parties and their employees, and with the requirements of Arizona Revised Statutes Section 23-214 (A). The parties shall further ensure that each subcontractor who performs work under this Agreement will likewise comply with all

applicable state and federal immigration laws. Failure to comply with this provision shall constitute a material breach of this Agreement. The City retains the right to inspect the paperwork of any contractor or subcontractor that is employed within the United States of America to ensure compliance with such laws. Such inspection shall require the execution of a confidentiality agreement in form and substance provided by the Purchaser

Section 5.13. No Boycott of Israel. The Purchaser certifies it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

IN WITNESS WHEREOF, the parties hereto have caused this Purchase and Exchange Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY OF SEDONA, ARIZONA

By _____
Name Sandra J. Moriarty
Title Mayor

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By _____
Name _____
Title _____

EXHIBIT A

TAXABLE OBLIGATION TERMS

Registered Owner:	Wells Fargo Bank, National Association
Issuer:	City of Sedona, Arizona
Issue:	Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1
Issue Date:	[August 13, 2021]
Mandatory Tender Date:	[April 1, 2022] , subject to the conditions set forth in Section 3.01(b) hereof
Maturity Date:	July 1, 2026
Principal Amount:	\$8,455,000
Taxable Interest Rate:	[____ %]
Calculation Basis:	A year of 360 days consisting of twelve 30-day months
Interest Payment Dates:	January 1 and July 1, commencing January 1, 2022
Tax Treatment of Interest:	Interest on the Taxable Obligation will be includable in gross income for federal income tax purposes
Optional Repayment:	Subject to a “make-whole”
Mandatory Repayment:	The principal of the Taxable Obligation is subject to mandatory repayment on the following dates in the following amounts

Date	Principal Amount
July 1, 2025	\$4,195,000
July 1, 2026	<u>4,260,000</u>
	\$8,455,000

EXHIBIT B

TAX-EXEMPT OBLIGATION TERMS

Registered Owner:	Wells Fargo Bank, National Association or any affiliate thereof
Issuer:	City of Sedona, Arizona
Issue:	Excise Tax Revenue Refunding Obligation, Series 2021-2
Issue Date:	[April 1, 2022]
Maturity Date:	July 1, 2026
Principal Amount:	\$8,455,000
Tax-Exempt Interest Rate:	[___ %]
Calculation Basis:	A year of 360 days consisting of twelve 30-day months
Interest Payment Dates:	January 1 and July 1, commencing July 1, 2022
Tax Treatment of Interest:	Interest on the Tax-Exempt Obligation will be excludable from gross income for federal income tax purposes
Optional Repayment:	Subject to a “make-whole”
Mandatory Repayment:	The principal of the Tax-Exempt Obligation is subject to mandatory repayment on the following dates in the following amounts

Date	Principal Amount
July 1, 2025	\$4,195,000
July 1, 2026	<u>4,260,000</u>
	\$8,455,000

EXHIBIT C

FORM OF APPROVING OPINION

[TO BE INSERTED]

PLACEMENT AGENT AGREEMENT

_____, 2021

City of Sedona, Arizona
102 Roadrunner Drive
Sedona, Arizona 86336

Re: City of Sedona, Arizona Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1

The City of Sedona, Arizona (the “Issuer”) proposes to cause the execution and delivery in a private placement of the above-referenced obligation of the Issuer (the “Obligation”), the Obligation to be executed and delivered for the purposes described in the hereinafter defined Resolution, and to pay costs incurred in connection with the execution and delivery of the Obligation. The Obligation is authorized to be executed and delivered pursuant to a Resolution of the Mayor and Council of the Issuer (the “Council”) adopted on July 27, 2021 (the “Resolution”).

This Placement Agent Agreement (this “Agreement”) confirms the agreement between the Issuer and Stifel, Nicolaus & Company, Incorporated (the “Placement Agent”) as follows:

1. Engagement. The Issuer hereby engages the Placement Agent as its exclusive agent to assist the Issuer in placing the Obligation on a best efforts basis with one or more purchasers, each a “qualified institutional buyer” as defined in Rule 144A under the Securities Act of 1933 (the “Securities Act”) or an “accredited investor,” as defined in Rule 501(a)(1), (2), (3), or (7) under the Securities Act, as represented by each purchaser in an executed Investor Letter in the form attached as Exhibit C hereto (the “Purchaser,” or the “Purchasers”), on a private placement basis (the “Placement”). Sale and delivery of the Obligation by the Issuer and purchase by the Purchasers will occur on the day of closing (“Closing Date”). The Issuer acknowledges and agrees that the Placement Agent’s engagement hereunder is not an agreement by the Placement Agent or any of its affiliates to underwrite or purchase the Obligation or otherwise provide any financing to the Issuer. The Placement Agent hereby accepts this engagement upon the terms and conditions set forth in this Agreement.
2. Fees and Expenses.
 - (a) For its services under this Agreement, the Issuer agrees to pay the Placement Agent:
 - (1) a placement fee for its services under this Agreement of \$_____, payable on the Closing Date; and

- (2) as reimbursement, the reasonable expenses incurred by the Placement Agent in preparing to market and marketing the Obligation, including, but not limited to, travel and printing and distribution of the Placement Materials (as defined herein), whether or not a closing occurs, upon the earlier of receipt of an invoice or on the Closing Date; provided that the Placement Agent shall be under no obligation to pay any expenses incident to this Agreement.
- (b) In the event the Issuer terminates this Agreement and within twelve (12) months thereafter sells the Obligation to an investor identified by the Placement Agent to the Issuer prior to such termination, the amounts payable under (a)(2) above shall be immediately due and payable by the Issuer.

3. Disclosure and Due Diligence.

- (a) The Issuer has furnished the Placement Agent with _____, along with the form of the Resolution, the Purchase Agreement (as defined in the Resolution) and the Trust Agreement (as defined in the Resolution) (together with all supplements, modifications, and additions thereto prior to the Closing Date, the “Placement Materials”). The Issuer acknowledges and agrees that it has, with the assistance of the Placement Agent, prepared and is solely responsible for the completeness, truth, and accuracy of the Placement Materials and that the Placement Agent and each Purchaser may rely upon, as complete, true, and accurate, the Placement Materials and all information provided by the Issuer to the Placement Agent for use in connection with the Placement and that the Placement Agent does not assume any responsibility therefor.
- (b) Prior to the Closing Date, the Issuer will make available to each Purchaser and the Placement Agent such documents and other information which the Purchaser or the Placement Agent reasonably deems appropriate with respect to the transaction contemplated hereby, will provide access to its officers, directors, employees, accountants, counsel and other representatives, and will provide each Purchaser and the Placement Agent the opportunity to ask questions and receive answers from knowledgeable individuals, including Greenberg Traurig, LLP, special counsel to the Issuer (“Special Counsel”) (whose opinion each shall receive and upon which they may rely) concerning the Issuer, the Obligation, and the security therefor; it being understood that the Purchasers and the Placement Agent will rely solely upon such information supplied by

the Issuer and its representatives without assuming any responsibility for independent investigation or verification thereof.

- (c) In the event that the Placement Agent is unable to complete “due diligence” in order to form a reasonable basis for recommending the Obligation to Purchasers either (1) because of the Issuer’s failure to comply with paragraph (a) or (b) of this paragraph or (2) because the Placement Agent uncovers “red flags” about the Issuer that cause the Placement Agent to be not satisfied that the Placement Agent can in good faith recommend the Obligation to Purchasers, the Placement Agent may terminate this Agreement without further obligation on the part of the Placement Agent to proceed with the Placement and without any obligation on the part of the Placement Agent to reimburse to the Issuer any monies advanced by the Issuer to the Placement Agent.

4. Representations, Warranties, and Agreements of the Issuer. As of the date of this Agreement, unless otherwise stated, the undersigned, on behalf of the Issuer, but not individually, represents, warrants, and agrees with the Placement Agent that:

- (a) The Issuer is duly organized and validly existing under the laws of the State of Arizona (the “State”) with the power to adopt the Resolution, perform the agreements on its part contained therein and in the agreements approved thereby and cause the execution and delivery of the Obligation.
- (b) The Issuer will not cause or permit any action to be taken in the placement of the Obligation in violation of the requirements for exemption from registration or qualification of the Obligation under all federal and applicable state securities laws and regulations.
- (c) The Issuer has complied materially, and in all respects on the Closing Date will be in material compliance, with all of the provisions of applicable law of the State.
- (d) The Issuer: (1) has duly authorized and approved the execution and delivery of this Agreement, the Purchase Agreement and the Trust Agreement (collectively, the “Documents”); (2) will have duly adopted the Resolution prior to the Closing Date; (3) will duly authorize and approve the Placement Materials and the delivery thereof to prospective Purchasers; and (4) will duly authorize and approve the execution and delivery of all financing or operative documents, including the Obligation and the Documents, relating to the execution and delivery and security for the Obligation, as such documents are amended and supplemented to the Closing Date, including but not limited to any trust indenture, loan agreement, or

security instrument (collectively, the “Financing Documents”), and the performance of its obligations and the consummation by it of all other transactions contemplated thereby.

- (e) On the Closing Date, the Financing Documents will have been duly authorized, executed, and delivered by the Issuer, and, assuming due authorization, execution and delivery by the other parties thereto, as applicable, constitute legal, valid and binding agreements of the Issuer enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other laws affecting the enforcement of creditors’ rights generally and by the application of equitable principles if sought and by the limitations on legal remedies imposed on actions against the Issuer in the State.
- (f) The Issuer is not, and on the Closing Date will not be, in breach of or default under any applicable law or administrative regulation of the State or any department, division, agency or instrumentality thereof, or of the United States, or any applicable judgment or decree or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject, which breach or default would materially and adversely affect the Issuer or its ability to perform its duties and obligations under the Financing Documents, and the execution and delivery of the Financing Documents, the adoption of the Resolution and the execution and delivery of the Financing Documents and the Obligation and compliance with the provisions of each will not conflict with or constitute a breach of or default under any applicable law or administrative regulation of the State or under any certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject, which breach or default would materially and adversely affect the Issuer or its ability to perform its duties and obligations under the Financing Documents and the Obligation.
- (g) No action, suit, proceeding or investigation at law or in equity before or by any court, governmental agency, public board or body is, or on the Closing Date will be, pending or, to the knowledge of the Issuer, threatened: (i) in any way affecting the existence of the Issuer or the titles of the members of the Council to their respective offices, (ii) seeking to prohibit, restrain or enjoin the execution, sale or delivery of the Obligation or the levy, assessment or collection of taxes or collection or payment by the Issuer of any amounts pledged or to be pledged as security to pay the principal of and interest on Obligation, (iii) in any way contesting or affecting the validity or enforceability of, or the power or authority of the Issuer to execute

and deliver, adopt or to enter into (as applicable), the Obligation, the Resolution or the Financing Documents, (iv) contesting in any way the completeness, truth, or accuracy of the Placement Materials, or (v) except as disclosed in the Placement Materials, wherein an unfavorable decision, ruling or finding would materially adversely affect the financial position or condition of the Issuer or would result in any material adverse change in the ability of the Issuer to pledge or apply the security or source of payment of, or to pay debt service on, the Obligation.

(h) Regarding information provided by the Issuer to the Placement Agent:

(1) The Issuer will furnish the Placement Agent and the Purchaser with the Placement Materials. The Issuer represents and warrants that all information made available to the Placement Agent by the Issuer or contained in the Placement Materials, when provided will be, and will be at all times thereafter during the period of the engagement of the Placement Agent hereunder, complete, true, and accurate in all material respects and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in light of the circumstances under which such statements are made;

(2) except as otherwise indicated to the contrary in the Issuer's financial statements, all historical financial statements of the Issuer provided to the Placement Agent and each Purchaser has been prepared in accordance with generally accepted accounting principles and practices then in effect in the United States and will fairly present the financial condition and operations of the entities covered thereby in all material respects; and

(3) any forecasted financial or market information with respect to the Issuer or its market provided to the Placement Agent and each Purchaser by the Issuer has been or will be prepared in good faith with a reasonable basis for the assumptions and the conclusions reached therein.

(i) On the Closing Date, the Issuer will deliver or cause to be delivered to the Placement Agent:

(1) The opinion of Special Counsel, dated the Closing Date, relating to:

- (i) the validity of the Obligation; and
 - (ii) exemption from registration and qualification under federal and state securities law, together with a reliance letter from such counsel, dated the Closing Date and addressed to the Placement Agent, in the form attached to this Agreement as Exhibit A, or such other form as is acceptable to the Placement Agent;
 - (2) a certificate of the Issuer, dated the Closing Date, in the form attached to this Agreement as Exhibit B, stating:
 - (i) the Issuer has complied with and fully satisfied all of its agreements with and obligations to the Placement Agent under this Agreement; and
 - (ii) the Issuer has complied with and fully satisfied all of its agreements with and obligations to the Placement Agent under this Agreement; and
 - (iii) as of its date and the Closing Date, the information contained in the Placement Materials is complete, true, and accurate and such information does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;
 - (3) An Investor Letter, in the form attached to this Agreement as Exhibit C, executed by each Purchaser and addressed to the Issuer and the Placement Agent; and
 - (4) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Placement Agent and Special Counsel may reasonably request to evidence compliance by the Issuer with legal requirements, the truth and accuracy, as of the Closing Date, of the representations of the Issuer, and the due performance or satisfaction by the Issuer at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Issuer.
5. Termination. This Agreement may be terminated by either party upon ten (10) business days' prior written notice; provided that the provisions of Paragraph 2 and obligations thereunder shall not be affected by such termination.

6. Regulatory Disclosure. The Issuer acknowledges, in connection with the purchase and sale of the Obligation, the offering of the Obligation for sale and the discussions and negotiations relating to the terms of the Obligation pursuant to and as set forth in this Agreement, that:
- (a) the Placement Agent has acted at arm's length, is acting solely for its own account and is not agent of or advisor to (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), and owes no fiduciary duty to the Issuer or any other person,
 - (b) the Placement Agent's duties and obligations to the Issuer shall be limited to those contractual duties and obligations set forth in this Agreement,
 - (c) the Placement Agent may have interests that differ from those of the Issuer, and
 - (d) the Issuer has consulted its legal and financial advisors to the extent it deemed appropriate in connection with the offering and sale of the Obligation. The Issuer further acknowledges and agrees that it is responsible for making its judgment with respect to the offering and sale of the Obligation and the process leading thereto. The Issuer agrees that it will not claim that the Placement Agent acted as a Municipal Advisor to the Issuer or rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Issuer, in connection with the offering or sale of the Obligation or the process leading thereto.

The Placement Agent hereby further provides the Issuer with certain disclosures relating to Obligation, as required by the Municipal Securities Rulemaking Board (MSRB) Rule G-17 as set forth in MSRB Notice 2012-25 (May 7, 2012)¹:

- (e) The Placement Agent intends to serve as a placement agent, and not as a financial advisor or municipal advisor in connection with the execution and delivery of the Obligation. As part of our services as the Placement Agent we may provide advice concerning the structure, timing, terms, and other similar matters concerning the execution and delivery of the Obligation.
- (f) Concerning our role as the Placement Agent:

¹ Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities (effective August 2, 2012).

- (i) Municipal Securities Rulemaking Board Rule G-17 requires us to deal fairly at all times with both municipal issuers and investors;
 - (ii) our primary role in this transaction is to facilitate the sale and purchase of your Obligation between you and one or more investors for which we will receive compensation;
 - (iii) unlike a municipal advisor, we do not have a fiduciary duty to you under the federal securities laws and are, therefore, not required by federal law to act in your best interests without regard to our own financial or other interests;
 - (iv) we have a duty to use our commercially reasonable efforts to arrange the purchase of the Obligation from you by investors at a fair and reasonable price, but must balance that duty with our duty to arrange the sale to investors at prices that are fair and reasonable; and
 - (v) we will review the Placement Materials for your Obligation in accordance with, and as part of, our responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of the transaction.
- (g) Concerning our compensation, we will be compensated pursuant to the terms set forth in Paragraph 2 of this Agreement. A portion of our compensation may be based in whole or in part upon the principal amount of the Obligation sold in the Placement. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest because the Placement Agent may have an incentive to recommend to you a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

7. Survival of Certain Representations and Agreements. The respective agreements, covenants, representations, warranties and other statements of the Issuer and its officers set forth in or made pursuant to this Agreement shall survive delivery of and payment for the Obligation and shall remain in full force and effect, regardless of any investigation, or statements as to the results thereof, made by or on behalf of the Placement Agent.

8. Notices. Any notice or other communication to be given to the Issuer under this Agreement may be given by delivering the same in writing to the Issuer at its address set forth above. Any notice or other communication to be given to the Placement Agent under this Agreement may be given by delivering the same in writing to Stifel, Nicolaus & Company Incorporated,

2801 East Camelback Road, Suite 300, Phoenix, Arizona 85016, Attention: B. Mark Reader, Managing Director.

9. No Boycott of Israel. By entering into this Agreement, the Placement Agent certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, if any, are not currently engaged in, and for the duration of this Agreement will not engage in, a boycott of goods or services from the State of Israel, companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or persons or entities doing business in the State of Israel. The Placement Agent understands that “boycott” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.
10. No Assignment. This Agreement has been made by the Issuer and the Placement Agent, and no person, other than the foregoing, shall acquire or have any right under or by virtue of this Agreement.
11. Applicable Law. This Agreement shall be interpreted, governed and enforced in accordance with the laws of the State.
12. Effectiveness. This Agreement shall become effective upon its execution by duly authorized officials of all parties hereto and shall be valid and enforceable from and after the time of such execution.
13. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
14. Counterparts. This Agreement may be executed in several counterparts (including counterparts exchanged by email in PDF format), each of which shall be an original and all of which shall constitute but one and the same instrument.
15. Cancellation of Contracts. As required by the provisions of Section 38-511, Arizona Revised Statutes, notice is hereby given that the State, its political subdivisions (including the Issuer) or any department or agency of either may, within three (3) years after its execution, cancel any contract (including this Agreement), without penalty or further obligation, made by the State, its political subdivisions or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any of the departments or agencies of either is, any time while the contract or any extension of the contract is in effect, an employee

or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from the Governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time. The State, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract. This paragraph is not intended to expand or enlarge the rights of the Issuer hereunder except as required by Section 38-511, Arizona Revised Statutes. Each of the parties hereto hereby certifies that it is not presently aware of any violation of Section 38-511, Arizona Revised Statutes which would adversely affect the enforceability of this Agreement and covenants that it shall take no action which would result in a violation of Section 38-511, Arizona Revised Statutes.

[Signature page follows.]

Respectfully submitted,

STIFEL, NICOLAUS & COMPANY, INCORPORATED

.....
B. Mark Reader, Managing Director

ACCEPTED this ____ day of _____ 2021.

CITY OF SEDONA, ARIZONA

By _____
Sandra J. Moriarty, Mayor

ATTEST:

Susan L. Irvine, City Clerk

EXHIBIT A

FORM OF RELIANCE LETTER TO THE PLACEMENT AGENT

Stifel, Nicolaus & Company, Incorporated

[Date of Closing]

Re: City of Sedona, Arizona
Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1

Ladies and Gentlemen:

We have acted as special counsel to the City of Sedona, Arizona (the “Issuer”), in connection with the execution and delivery of the above-referenced Obligation (the “Obligation”).

Reference is hereby made to our opinion letter as special counsel addressed to the Issuer dated of even date herewith and delivered with respect to the Obligation. Please be advised that you are entitled to rely on said letter as if the same had been addressed to you.

This letter is furnished by us to you in our capacity as special counsel to the Issuer pursuant to Paragraph 4(i)(1) of the Placement Agent Agreement with respect to the Obligation, dated _____, 2021, between the Issuer and you. No attorney-client relationship has existed or exists between our firm and you or any other party in connection with the Obligation or by virtue of this letter. Our opinion may be relied upon only by the addressee hereof and may not be used or relied upon by any other person for any purpose whatsoever without, in each instance, our prior written consent.

Very truly yours,

EXHIBIT B

FORM OF ISSUER CLOSING CERTIFICATE

Pursuant to the Placement Agent Agreement, dated _____, 2021 (the Agreement”), between the City of Sedona, Arizona (the “Issuer”), and Stifel, Nicolaus & Company, Incorporated (the “Placement Agent”), as [title] of the Issuer duly authorized to execute this certificate on behalf of the Issuer, I hereby certify:

1. the representations and warranties of the Issuer contained in the Agreement are true and correct as if made on the date hereof;
2. the Issuer has complied with and fully satisfied all of its agreements with and obligations to the Placement Agent under this Agreement; and
3. as of its date and the date hereof, the information contained in the Placement Materials (as defined in the Agreement) is complete, true, and accurate and such information does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

[Name]

[Title]

[Date]

EXHIBIT C

FORM OF INVESTOR LETTER

City of Sedona, Arizona

Stifel, Nicolaus & Company, Incorporated

Re: City of Sedona, Arizona Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1

Ladies and Gentlemen:

The undersigned (the “Investor”) hereby acknowledges that it is purchasing the \$____,000 aggregate principal amount City of Sedona, Arizona Excise Tax Revenue Refunding Obligation, Taxable Series 2021-1 (the “Obligation”), authorized to be executed and delivered pursuant to a Resolution (the “Resolution”) adopted by the Mayor and Council of the City of Sedona, Arizona (the “Issuer”) on July 27, 2021. The Obligation will be executed and delivered pursuant to the Third Trust Agreement, dated as of August 1, 2021 (the “Trust Agreement”), by and between the Issuer and U.S. Bank National Association, as trustee. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Resolution, the Trust Agreement and the Placement Materials (as defined in the hereinafter defined Placement Agreement).

This letter is being provided pursuant to a Placement Agent Agreement, dated _____, 2021 (the “Placement Agreement”), between the Issuer and Stifel, Nicolaus & Company, Incorporated (the “Placement Agent”).

The Investor acknowledges that the proceeds of the Obligation will be used for the purposes described in the Resolution. The Obligation shall be payable from the sources described in the Trust Agreement.

In connection with the sale of the Obligation to the Investor, the Investor hereby makes the following representations upon which you may rely:

1. The Investor has the authority and is duly authorized to purchase the Obligation and to execute this letter and any other instruments and documents required to be executed by the Investor in connection with its purchase of the Obligation.
2. The Investor is (a) a “qualified institutional buyer” as that term is defined in Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”), or (b) an “accredited investor” as that term is defined in Rule 501(a)(1), (2), (3), or (7) under the Securities Act.
3. The Investor is not purchasing the Obligation for more than one account or with a view to distributing the Obligation.

4. The Investor understands that the Obligation is not, and is not intended to be, registered under the Securities Act and that such registration is not legally required as of the date hereof, and further understands that the Obligation (a) is not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating agency or a CUSIP identification number, and (d) will be delivered in a form that may not be readily marketable.
5. The Investor acknowledges that it has either been supplied with or been given access to information, including the Placement Materials, which it has requested from the Issuer and to which a reasonable investor would attach significance in making investment decisions, and the Investor has had the opportunity to ask questions and receive answers from knowledgeable individuals, including its own counsel, concerning the Issuer and the Obligation and the security therefor so that, as a reasonable investor, the Investor has been able to make a decision to purchase the Obligation. The Investor has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its prospective investment in the Obligation.
6. The Investor acknowledges that the obligations of the Issuer with respect to the Obligation are payable solely from the sources described in the Trust Agreement.
7. The Investor has made its own inquiry and analysis with respect to the Obligation and the security therefor, and other material factors affecting the security and payment of the Obligation. The Investor is aware that there are certain economic and regulatory variables and risks that could adversely affect the security for the Obligation. The Investor has reviewed the documents executed in conjunction with the execution and delivery of Obligation, or summaries thereof, including, without limitation, the Resolution.
8. The Investor acknowledges and agrees that the Placement Agent and the Issuer take no responsibility for, and make no representation to the Investor, or any subsequent purchaser, with regard to, a sale, transfer or other disposition of the Obligation in violation of the provisions of the Trust Agreement, or any securities law or income tax law consequences thereof. The Investor also acknowledges that, with respect to the Issuer’s obligations and liabilities, the Investor is solely responsible for compliance with the sales restrictions on the Obligation in connection with any subsequent transfer of the Obligation made by the Investor.
9. The Investor agrees that it is bound by and will abide by the provisions of the Trust Agreement relating to transfer, the restrictions noted on the face of the Obligation and this Investor Letter. The Investor also covenants to comply with all applicable federal and state securities laws, rules and regulations in connection with any resale or transfer of the Obligation by the Investor.

10. The Investor acknowledges that the sale of the Obligation to the Investor is made in reliance upon the certifications, representations, and warranties herein made to the addressees hereto.
11. The interpretation of the provisions hereof shall be governed and construed in accordance with State of Arizona law without regard to principles of conflicts of laws.
12. All representations of the Investor contained in this letter shall survive the execution and delivery of the Obligation to the Investor as representations of fact existing as of the date of execution and delivery of this Investor Letter.

Date:, 2021

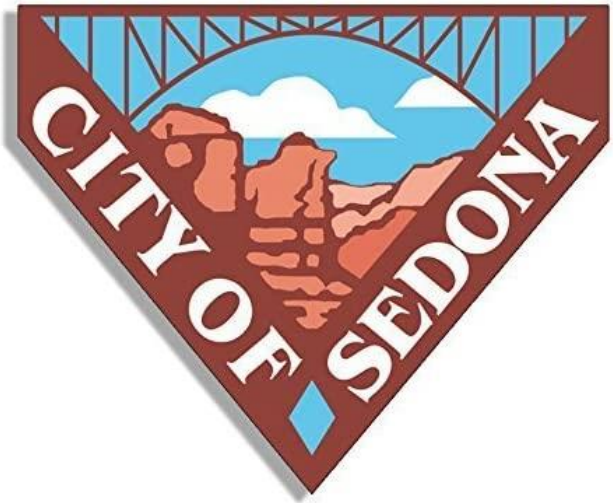
Very truly yours,

Investor:

By:.....

Printed Name:.....

Title:



City of Sedona, Arizona

\$8,889,000*

**Excise Tax Revenue Refunding Obligation,
Taxable Series 2021-1 and
Tax-Exempt Series 2021-2**



July 27th, 2021

* Subject to change.

2801 E. Camelback Road, Suite 300
Phoenix, Arizona 85016
(602) 794-4000

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Refunding Overview

\$8,395
Excise Tax Revenue
Refunding Obligations

Series 2012
Dated: 2/8/12

Fiscal Year Ending (July 1)	Principal	Coupon
2022		
2023		
2024		
2025	\$4,105	4.500%
2026	4,290	4.500%
	\$8,395	

- Interest Rate (Coupon) of Bonds Being Refunded: 4.50%
- Call Date: July 1, 2022, no penalty
- Tax law does not currently allow tax-exempt refundings more than 90 days before a call date
- Convertible or “Cinderella” refundings are taxable until within the 90 day window and then convert to tax-exempt
- Wells Fargo has proposed a 1.41% taxable rate and a 1.16% tax-exempt rate
- Interest rate would be 1.41% through April 4, 2022 and then convert to 1.16% though July 1, 2026
- Goals:
 1. Replace 4.50% debt with an estimated All-In True Interest Cost refunding of approximately 1.53%
 2. Achieve approximately \$732K Net Present Value Savings
 3. Level savings structure of an estimated \$150K annually

Call Features: 7/1/25 and After
Callable 7/1/22
@ par

Purpose: Advance Refunding of 1998 bonds originally issued for Wastewater System Improvements

Detailed Savings Analysis*

	(1)	(2)	(3)	(4)	(5) - (9) Estimated Savings				
Maturity Year	Debt Being Refunded (a)			Refunding Bonds			Gross	Present Value	
	Principal	Interest	Debt Service	Principal	Interest	Debt Service	Savings	Savings	
2022		\$ 377,775	\$ 377,775	\$ 122,000	\$ 105,342	\$ 227,342	\$ 150,433	\$ 149,689	
2023		377,775	377,775	125,000	101,697	226,697	151,078	148,525	
2024		377,775	377,775	127,000	100,247	227,247	150,528	146,234	
2025	\$ 4,105,000	377,775	4,482,775	4,233,000	98,774	4,331,774	151,001	144,953	
2026	4,290,000	193,050	4,483,050	4,282,000	49,671	4,331,671	151,379	143,204	
Totals	\$ 8,395,000	\$ 1,704,150	\$ 10,099,150	\$ 8,889,000	\$ 647,482	\$ 9,344,732	\$ 754,418	\$ 732,604	

(a) Represents debt service from all maturities of the 2012 Obligations.

Net PV Savings: **\$ 732,604**
Net PV Savings as a Percent of Bonds: **8.727%**

Refunding Statistics	
Tax Status	Tax-Exempt
Issuance Date	8/13/2021
Par Amount	\$8,889,000
Refunded Par	\$8,395,000
Avg. Ref. Coupon (2012)	4.50%
All-In TIC (2021)	1.53%
NPV Savings (\$)	\$732,604
NPV Savings (%)	8.727%
Avg Annual Savings	\$150,884
Total Savings	\$754,418

Remaining Bond Payments & Coverage⁽¹⁾

(pg. GS-11)

Fiscal Year	General Fund	Wastewater Fund	Totals	Estimated Coverage
FY 2022	\$1,031,841	\$ 4,687,775	\$ 5,719,616	6.20
FY 2023	1,028,993	4,687,775	5,716,768	6.35
FY 2024	1,020,854	4,687,775	5,708,629	6.47
FY 2025	1,027,521	4,482,775	5,510,296	6.82
FY 2026	1,028,703	4,483,050	5,551,753	6.93
FY 2027	1,024,497	-	1,024,497	37.94
Totals	\$6,162,409	\$27,716,925	\$29,191,559	

FY 2022 Additional Debt Payment Capacity - \$17.9M

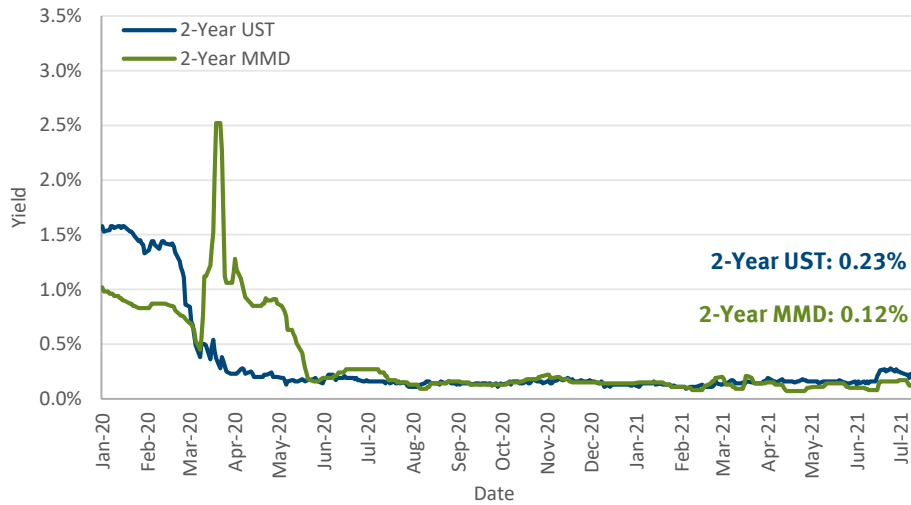
Recommendation: Since excise tax revenues are the primary funding source for City operations, cash flow capacity is a more significant driver for debt limitation.

⁽¹⁾The bond covenants require that excise tax revenues be equal to at least 1.50 times the total payments for all bonds secured by a pledge of excise tax revenues. If at any time it appears that the excise tax revenues will not be sufficient to meet this requirement, the City must either impose a new excise tax or increase the current tax rates to reach the 1.50 coverage requirement, to the extent permitted by law.

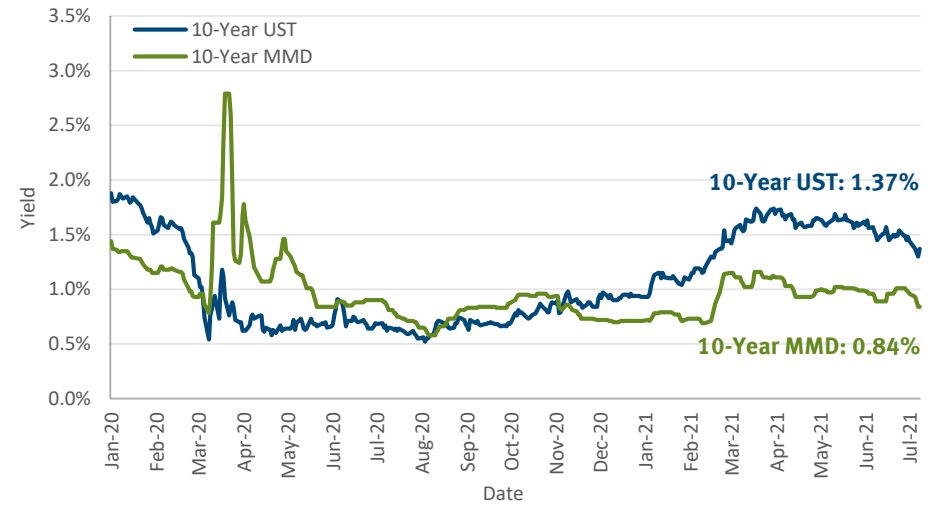
Tax-Exempt and Taxable Interest Rate Movement

Last Week, AAA MMD Yields Decreased More Than UST Yields

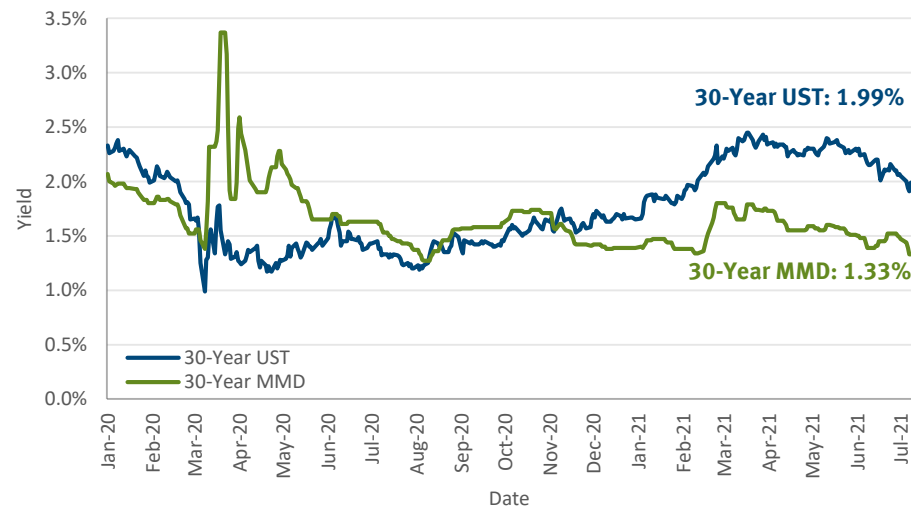
2-Year UST and AAA MMD Yields Decrease Towards All-Time Lows Comparing 2-Year UST and 2-Year AAA MMD since January 1, 2020



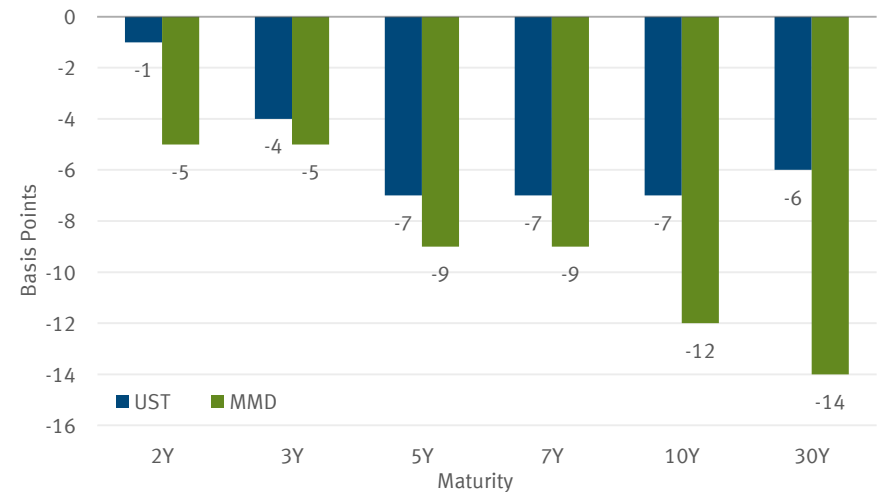
The Gap Between the 10-Year UST Yield and AAA MMD Yield Increases Comparing 10-Year UST and 10-Year AAA MMD since January 1, 2020



30-Year UST and AAA MMD Yields Trend Downward Comparing 30-Year UST and 30-Year AAA MMD since January 1, 2020



All AAA MMD Yields And Nearly All UST Yields Record Decreases Weekly Changes in UST and MMD Yield from June 25, 2021 to July 2, 2021



Public Finance	
STIFEL	2801 E. Camelback Road Suite 300 Phoenix, AZ 85016
MARK READER <i>Managing Director</i>	Phone: (602) 794-4011 Cell: (602) 432-4889 mreader@stifel.com
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**CITY COUNCIL
AGENDA BILL**

**AB 2571
July 27, 2021
Regular Business**

Agenda Item: 8b
Proposed Action & Subject: Discussion/possible direction regarding issues surrounding the COVID-19 pandemic and the City's response.

Department	City Manager
Time to Present	10 minutes
Total Time for Item	15 minutes
Other Council Meetings	March 24, 2020, April 14, 2020, April 28, 2020, May 12, 2020, May 26, 2020, June 9, 2020, June 23, 2020, July 14, 2020, July 28, 2020, August 11, 2020, September 8, 2020, September 22, 2020, October 13, 2020, October 27, 2020, November 10, 2020, November 24, 2020, December 9, 2020, January 12, 2021, January 26, 2021, February 9, 2021, February 23, 2021, March 9, 2021, March 23, 2021, April 13, 2021, April 27, 2021, May 11, 2021, May 25, 2021, June 8, 2021, June 22, 2021, July 13, 2021
Exhibits	None

City Attorney Approval	Reviewed 7-19-21 KWC	Expenditure Required	
		\$	0
		Amount Budgeted	
		\$	0
City Manager's Recommendation	For discussion and possible direction only.	Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background: This item was added to ensure opportunity to discuss the latest updates with the COVID-19 pandemic and the City's response.

The City continues regular communication with state and county health departments, hospitals, other healthcare providers, emergency responders, emergency managers, and policy experts.

City staff continues to evaluate how the economic slowdown will impact City finances. Staff will be prepared to discuss the latest revenue data and forecasts.

During the meeting staff will present up to date information on COVID-19 related data, regulatory changes, and news on city finances.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): N/A

MOTION

I move to: for discussion and possible direction only.