

TRUST AGREEMENT

This TRUST AGREEMENT ("Agreement") dated as of October 31, 1996, by and among the City of Phoenix, Arizona, an Arizona municipal corporation ("City") and Phoenix Arena Development Limited Partnership, a Delaware Limited Partnership ("Operator"), and BANK ONE, ARIZONA, NA ("Trustee").

WHEREAS, City and Operator have entered into a First Restated Operating Agreement dated as of July 19, 1989, as amended (the "Operating Agreement"), providing for the establishment of a "Renewal and Replacement Trust Account" ("R & R"), whereby the Operator shall make R & R payments in the amount of \$343,000 per year, increased at the annual rate of three percent (3%) (compounded annually and calculated without regard for when during the year the payment is made).

NOW, THEREFORE, the parties agree as follows:

ARTICLE I
TRUST DEPOSITS

1.1. Appointment of the Trustee. City and Operator hereby appoint the Trustee as the R & R trustee contemplated by the Operating Agreement and the Trustee hereby accepts such appointment and agrees to act in such capacity in accordance with the terms hereof.

1.2. Trust Deposits. Concurrently with the execution hereof, Operator has deposited the first R & R payment due under the Operating Agreement. Such deposit, together with all subsequent R & R payments made by the Operator to the Trustee, and less any amounts disbursed by the Trustee in accordance with this Agreement, shall be referred to herein as the "Trust Deposits." The timing and amounts of all subsequent R & R payments by the Operator shall be determined in accordance with the Operating Agreement. The Trustee hereby agrees to accept as additional Trust Deposits all sums delivered to it by the Operator which are designated as R & R payments made pursuant to the provisions of the Operating Agreement.

1.3. Rights to Trust Deposits. Except as expressly provided herein, neither City nor Operator shall have any right, title or interest in or possession of all or any portion of the Trust Deposits. Specifically and without limiting the generality of the foregoing, (i) neither City nor Operator shall have the ability to pledge, convey, hypothecate or grant a security interest in the Trust Deposits unless and until such assets have been released to such party in accordance with Article II below and (ii) until released pursuant to Article II below, the Trustee shall be in sole possession of the Trust Deposits and will not act or be deemed to act as custodian for any party for purposes of perfecting a security interest therein. Accordingly, except as set forth in Section 3.1, no person (including any creditor of City or Operator) shall have any right to have or to hold the Trust Deposits as collateral for any obligation and shall not be able to obtain a security interest in any assets (tangible or intangible) contained in or relating to the Trust Deposits.

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ARTICLE II
DISBURSEMENT AND INVESTMENT

2.1. Disbursements. The Trustee shall release the Trust Deposits only as expressly provided in this Agreement. The Trustee shall not be required to make any independent verification of the information contained in or enclosures included with any disbursement request or any independent judgment as to whether or not the requesting party or parties has/have complied with the provisions of Article 5 of the Operating Agreement.

2.2. Release of Trust Deposits. Except as set forth in Section 2.3. of this Agreement, the Trustee shall release Trust Deposits in accordance with this Section 2.2.

2.2.1 Prior to July 1, 2021. Prior to July 1, 2021, the Trustee shall make disbursements of Trust Deposits to the Operator upon receipt of a joint written authorization from the City and the General Manager of the Operator (the "General Manager"), currently Robert K. Machen, which includes the following information:

- a) the amount to be disbursed by the Trustee; and
- b) a certification that the individual(s) requesting the disbursement is/are authorized to do so.

2.2.2 From and After July 1, 2021. From and after July 1, 2021, the Trustee shall make disbursements of Trust Deposits to the Operator upon receipt of either:

- a) a joint written authorization from the City and the Operator which contains the information specified in subsections a) and b) of Section 2.2.1 of this Agreement; or
- b) a written request from the City which contains the information specified in subsections a) and b) of Section 2.2.1 of this Agreement and a certification that (i) notice of the proposed disbursement has been properly given to the Operator pursuant to Section 5.3.3 of the Operating Agreement, and (ii) no notice of dispute has been received by the City with respect to such proposed disbursement within the applicable time period set forth in Section 5.3.3 of the Operating Agreement.

2.3. Emergency Capital Improvements. The General Manager is permitted by the Operating Agreement to authorize a disbursement of Trust Deposits to the Operator for Emergency Capital Improvements (as defined in the Operating Agreement), without authorization from the City. The Trustee shall make such disbursements from the Trust Deposits to the Operator upon receipt of a request from the General Manager which contains the information specified in subsections a) and b) of Section 2.2.1 of this Agreement and a statement that such disbursement is requested for Emergency Capital Improvements.

2.4. Authorized Investments. The Trustee is hereby authorized and directed to invest the Trust Deposits into the One Group U.S. Treasury Securities Money Market Fund and the One Group Prime Money Market Fund, unless otherwise jointly directed by the City and the Operator in writing.

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2.5. Investment Earnings. On the first day of each month, the Trustee will deposit earnings from the authorized investment of Trust Deposits in the preceding month into a segregated account designated the "Interest Account." The deposit is required to be made only if the earnings on Trust Deposits for the preceding month are greater than the earned but unpaid fees and expenses corresponding to the investments as of the first day of the current month.

2.6. Interest Account. The Interest Account will be funded in accordance with Section 2.5. of this Agreement.

(i) Investment. The Trustee is hereby authorized and directed to invest all Interest Account funds into the One Group U.S. Treasury Securities Money Market Fund and the One Group Prime Money Market Fund, unless otherwise jointly directed by the City and the Operator in writing.

(ii) Disbursement. Prior to July 1, 2026, the Trustee shall make disbursements from the Interest Account to the Operator upon receipt of a request from the General Manager which contains the information specified in subsections a) and b) of Section 2.2.1 of this Agreement. From and after July 1, 2026, each of the Operator and the City will be authorized to independently request disbursements from the Interest Account without authorization from the other, and the Trustee will make such disbursements upon receipt of a request which contains the information specified in subsections a) and b) of Section 2.2.1 of this Agreement and a certification that (i) notice of the proposed disbursement has been properly given to the other party pursuant to Section 5.3.4 of the Operating Agreement, and (ii) no notice of dispute has been received by the requesting party with respect to such proposed disbursement within the applicable time period set forth in Section 5.3.4 of the Operating Agreement.

2.7. Account Termination. Except as provided in Section 10.4. or Section 11.4. of the Operating Agreement, upon the date of expiration of the Operating Agreement in accordance with its terms, all remaining Trust Deposits and Interest Account funds will be disbursed to the Operator and the City in accordance with a joint written instruction from the Operator and the City.

ARTICLE III THE TRUSTEE

3.1. Compensation. Contemporaneously with the execution of this Agreement, the Trustee shall be paid an Acceptance Fee of \$1,500 and a base Annual Administration Fee of \$1,000 in accordance with Section 3.1.1. hereof, which fees shall be deemed fully earned immediately. The Annual Administration Fee shall be paid in full (on a non-pro rata basis) to the Trustee for each year during the term of this Agreement in accordance with Section 3.1.1. hereof. In addition, the Trustee shall be paid its customary fees and expenses, including reasonable counsel fees and expenses for the services rendered by it pursuant to the provisions of this Agreement, in accordance with Section 3.1.1. hereof. The Trustee shall also be reimbursed for its expenses, including reasonable counsel fees and expenses incurred in connection with the negotiation of this agreement, which shall be paid upon execution of this Agreement in accordance with Section 3.1.1. hereof. The Trustee's current fee schedule is attached hereto as Exhibit A (but such fees may be reasonably adjusted from time to time upon

no less than 30 days' written notice to City and Operator). Notwithstanding anything to the contrary from either the City or Operator, the Trustee shall be entitled to retain from any disbursements requested hereunder any outstanding fees and/or expenses due to it hereunder. The Trustee is hereby granted first lien on the Trust Deposits in the Trustee's actual or constructive possession for all indebtedness that may become owing to the Trustee pursuant to this Agreement.

3.1.1. Payment. All compensation, reimbursement and other sums payable to the Trustee hereunder ("Fees") shall be paid as they become due in the following manner and strict order of preference:

(a) the Trustee shall first deduct such Fees from earnings on the authorized investment of Trust Deposits in the preceding month, before such earnings are deposited by the Trustee into the Interest Account;

(b) if earnings on Trust Deposits from the previous month are insufficient to pay such Fees, the Trustee shall then deduct the remainder from the Trust Deposits;

(c) if the Trust Deposits are insufficient to pay such Fees, the Trustee shall then deduct the remainder from the Interest Account; and

(d) if the Interest Account funds are insufficient to pay such Fees, the Trustee shall then present the Operator with a written invoice for the remainder, and the Operator shall pay such amount to the Trustee within thirty (30) days after receipt of the invoice. The Operator and the City agree that any amounts paid by the Operator in accordance with this subsection (d) shall be paid as a normal operating expense of the Operator.

3.1.2. Notices. No later than fifteen (15) days prior to making any deduction or sending any invoice for the payment of Fees in accordance with Section 3.1.1. hereof, the Trustee shall notify each of the Operator and the City in writing of the amount and purpose of each Fee in question. Such notices shall be sent by hand delivery or first class mail, postage prepaid, addressed as follows:

City: David Krietor, Director
City of Phoenix Community and Economic Development Department
200 West Washington Street, 20th Floor
Phoenix, AZ 85003-1622

Operator: Robert K. Machen, President and General Manager
Phoenix Arena Development Corporation
201 East Jefferson Street
Phoenix, AZ 85004

3.2. Statements. No later than thirty (30) days after the end of each calendar quarter during the term of this Agreement, the Trustee shall provide each of the Operator and the City

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with accounting statements reflecting all activity on the Trust Deposits and the Interest Account for such calendar quarter. The statements shall be sent by hand delivery or first class mail, postage prepaid, to the addresses set forth in Section 3.1.2 hereof.

3.3. Duties and Responsibilities. The Trustee shall have no duties or responsibilities, except those expressly set forth herein. All parties acknowledge and agree that the Trustee is acting solely and exclusively as a depository hereunder. The Trustee may rely on any notice, instruction, agreement or other instrument which it believes to be genuine and to have been signed or presented by the parties hereto. The Trustee shall be deemed to have no notice of, or duties with respect to, any agreement or arrangements with respect to the Trust Deposits, other than as set forth in this Agreement.

3.4. Ability to Consult Counsel. The Trustee may confer with legal counsel in the event of any dispute or questions as to the construction of any of the provisions hereof, or its duties hereunder, and it shall incur no liability and it shall be fully protected in acting in accordance with the opinions of such counsel.

3.5. Right to Interplead. In the event of any conflicting or inconsistent claims or demands being made in connection with the subject matter of this Agreement, or in the event that the Trustee is in doubt as to what action it should take hereunder, the Trustee may at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder so long as such disagreement continues or such doubt exists, and in any such event, the Trustee shall not be or become liable in any way or to any person for its failure or refusal to act, and the Trustee shall be entitled to continue to refrain from acting until (i) the rights of all parties have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been settled and all doubt resolved by agreement among the City and Operator, and the Trustee shall have been notified thereof in writing in the form of Exhibit B attached hereto. In addition to the foregoing rights, in the event the Trustee has any doubt as to the course of action it should take under this Agreement, the Trustee is hereby authorized to petition any Superior Court of Maricopa County, Arizona or the United States District Court of Arizona for instructions or to interplead the funds or assets so held into such court. The parties agree to the jurisdiction of either of said courts over their persons as well as the Trust Deposits, waive personal service of process, and agree that service of process by certified or registered mail, return receipt requested, to the address set forth below each party's signature to this Agreement shall constitute adequate service. The City and Operator hereby agree to indemnify and hold the Trustee harmless from any liability or losses occasioned thereby and to pay any and all of its fees, costs, expenses, and reasonable counsel fees and expenses incurred in any such action and agree that, on such petition or interpleader action, the Trustee, its servants, agents, employees or officers will be relieved of further liability. The Trustee is hereby given a lien upon, and security interest in, the Trust Deposits in the Trustee's actual or constructive possession, to secure the Trustee's rights to payment or reimbursement (or both) under this Agreement.

3.6. Indemnification. Notwithstanding anything to the contrary in the foregoing, City and Operator, jointly and severally, shall hold the Trustee harmless from any and all costs, liabilities, losses, damages, claims, expenses (including reasonable counsel fees and expenses),

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regardless of nature, arising out of or because of this Agreement and exonerate the Trustee from any liability in connection with this Agreement except such as may arise because of the Trustee's gross negligence or willful misconduct in performing its duties as the Trustee.

3.7. Successor. The Trustee or any successor, may resign at any time upon giving written notice to City and Operator thirty (30) days before such resignation shall take effect. In the event the Trustee shall resign or be unable to serve, it shall be succeeded by such bank or trust company as City and Operator shall mutually appoint. If no appointment is made, the Trustee may deliver the assets held by it to any court of competent jurisdiction in Maricopa County, Arizona. The resigning Trustee shall transfer to its successor or the court all monies, securities, and investments then held in trust and all pending notices, instructions, and directions then in its possession, and shall thereupon be discharged, and the successor shall thereupon succeed to all the rights, power' and duties and shall assume all the obligations of the resigning Trustee. A termination under this paragraph shall in no way discharge Sections 3.1. or 3.6. of this Agreement affecting reimbursement of expenses, indemnity and fees.

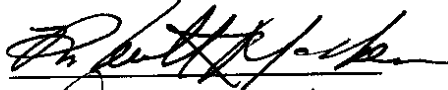
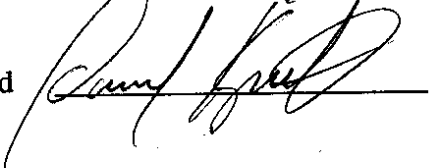
3.8. Collected Funds. It is strictly understood that the Trustee has no duty to disburse any funds to any party until such funds have been collected by the Trustee and those funds are available in accordance with normal banking procedures and/or policy.

ARTICLE IV TERMINATION

This Agreement shall be terminated upon the earlier of (a) the fulfillment of the provisions in Section 2.7. of this Agreement, or (b) the delivery to the Trustee of the written agreement of City and Operator to such termination. Upon the occurrence of either of the foregoing, this Agreement shall terminate, and Trustee shall be discharged of all responsibility hereunder at such time as Trustee shall have completed its duties hereunder, provided however, the Trustee's rights to indemnity and to receive payment of its fees and expenses shall survive any termination of this Agreement.

ARTICLE V OTHER PROVISIONS

5.1. Authorized Signatures. The individuals named below, with specimen signatures included, are authorized to issue the certifications of the Operator and the City (as applicable) contemplated herein.

<u>Party</u>	<u>Name</u>	<u>Title</u>	<u>Signature</u>
OPERATOR	Robert K. Machen	General Manager	
CITY	David Krietor	Director, Community and Economic Development	

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5.2. Notices. Any notice, demand, request or other document required or permitted to be given or delivered under the provisions of this Agreement shall in every case be in writing and be deemed properly served (a) upon personal delivery, (b) on the business day on which a telecopy is sent to another party at the numbers set forth below, or if sent on a non-business day, the next business day after such telecopy is sent, (c) one (1) business day after delivery to a recognized overnight courier service to the addresses as set forth below or at such other addresses as may be furnished in writing, or (d) four (4) business days after having been deposited in the United States Mail, if sent by certified or registered mail, return receipt requested, postage paid, to the addresses set forth below.

(i) If to City:
David Krietor, Director
City of Phoenix Community and Economic Development Department
200 West Washington Street, 20th Floor
Phoenix, AZ 85003-1622
Facsimile No: (602) 495-5097

With a copy to:
City Attorney
Phoenix Law Department
200 West Washington Street, 13th Floor
Phoenix, Arizona 85003
Facsimile No. (602) 534-9866

(ii) If to Trustee:
Bank One, Arizona, NA
241 North Central Avenue, 25th Floor
Phoenix, AZ 85004
Facsimile No.: (602) 221-1711
Attention: Corporate Trust Services A-804

(iii) If to Operator:
Robert K. Machen, President and General Manager
Phoenix, Arena Development Corporation
201 East Jefferson Street
Phoenix, AZ 85004
Facsimile No: (602) 379-2093

With a copy to:
Jay S. Ruffner, Esq.
Fennemore Craig, P.C.
2 North Central Avenue, 22nd Floor
Phoenix, Arizona 85004
Facsimile No. (602) 257-5715

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5.3. Benefit and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but shall not be assignable or delegable by any party without the prior written consent of the other party.

5.4. Entire Agreement; Amendment. This Agreement supersedes any other agreement (other than the Operating Agreement), whether written or oral, that may have been made or entered into by City or Operator (or by any director, officer or representative thereof) relating to the matters contemplated hereby. This Agreement may be amended or supplemented only by additional written agreements executed by all parties hereto.

5.5. Titles and Headings. Titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

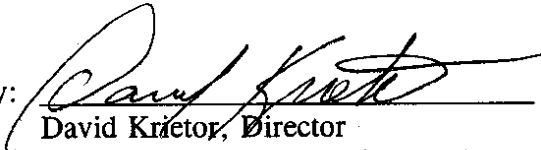
5.6. Governing Law. The validity, performance and enforcement of this Agreement shall be governed by the laws of the State of Arizona, without giving effect to the principles of conflicts of law thereof.


5.7. Execution in Counterparts. This Agreement may be executed in multiple counterparts: each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

Executed as of this 31 day of October, 1996.

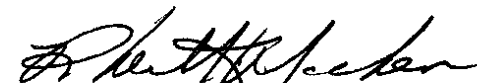
CITY OF PHOENIX

BANK ONE, ARIZONA, NA

By: 
David Krator, Director
Community and Economic Development

By: 
Name: Karen L. Robinson
Title: Assistant Vice President

PHOENIX ARENA DEVELOPMENT
LIMITED PARTNERSHIP
By Phoenix Arena Development
Corporation, its General Partner

By: 
Robert K. Machen
President

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Bank One, Arizona, NA
Trustee, Registrar & Paying Agent Services

RE: FEES FOR DOWNTOWN MULTIPURPOSE ARENA AGREEMENT

Acceptance Fee \$1,500.00

Including acceptance of contractual responsibility and establishment of administrative records and procedures to comply with the trust documents.

Annual Fee \$1000.00

Disbursements - Each \$ 10.00

One Group Money Market Funds 25 Basis Points

Investments (Each investment buy or sell) \$ 50.00

Out-of-Pocket Expenses:

A charge of 8% of the total fees will be added to cover ordinary business expenses for postage checks, stationery, printing, messenger deliveries, and telephone. Expenses for extraordinary services, such as, but not limited to, travel, legal, securities delivery, and legal notice publication will also be added.

Legal fees of counsel representing Bank One as registrar/paying agent will be billed additionally.

Extraordinary Time Charges \$150 per hour (see below)

Additional Terms and Conditions:

Acceptance of the appointment is subject to terms of the transaction and document provisions being satisfactory to the Bank.

The fees quoted in this letter apply to services ordinarily rendered in the administration of a Depository Trustee Agency and are subject to reasonable adjustment based on final review of documents, or when the Agent is called upon to undertake unusual duties or responsibilities or as changes in law, procedures, or the cost of doing business demand.

The Acceptance Fee and the first year Annual Administration Fee are payable at the transaction closing. Annual Administration fees cover a full year in advance, or any part thereof, and thus are not pro-rated in the year of termination.

In determining the general schedule of fees, Bank One takes into consideration the various incidental benefits accruing to it from the operation of the accounts. Collected funds must be on deposit prior to disbursement of payments. In addition, Bank One has the use of funds deposited to pay checks that have not yet been presented for payment. No interest shall be paid to the client on these funds, it being understood that the float on these funds is considered in the calculation of our fees.

EXHIBIT A

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JOINT LETTER OF DIRECTION

[Escrow Agent]

Re: Direction to Release Escrow Deposit

Gentlemen:

This Joint Letter of Direction is issued pursuant to Article II of the Trust Agreement (the "Agreement") dated October ____, 1996, by and among the City of Phoenix, Arizona, an Arizona Municipal Corporation ("City") and Phoenix Arena Development Limited Partnership, a Delaware Limited Partnership ("Operator"), and Bank One, Arizona, NA ("Trustee"). All capitalized terms not defined in this Joint Letter of Direction shall have the meanings assigned to them in the Agreement.

The parties hereto acknowledge that all differences have been settled and resolved by agreement among the City and Operator, and pursuant to such resolution, [insert direction to Trustee for disbursement of claim or demand].

This Joint Written Direction may be executed in any number of counterparts, each of which will constitute one and the same instrument.

CITY OF PHOENIX

By: _____
Title: _____

PHOENIX ARENA DEVELOPMENT
LIMITED PARTNERSHIP
By Phoenix Arena Development
Corporation, its General Partner

By: _____
Title: _____

EXHIBIT B

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