

RESOLUTION NO. 24-33

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA; AND DECLARING THE INTENTION OF THE CITY TO REIMBURSE CERTAIN EXPENDITURES WITH THE PROCEEDS OF THE LOAN OR OTHER SOURCE OF FINANCING

WHEREAS, the City of Apache Junction, Arizona (the "City"), has identified a need for certain capital improvement projects relating to drainage including, without limitation, the acquisition of certain real property (collectively, the "Project"); and

WHEREAS, in accordance with State of Arizona ("Arizona" or "State") law, the City may obligate certain excise taxes and State shared revenues of the City as the source of repayment for a loan from the Water Infrastructure Finance Authority of Arizona ("WIFA"); and

WHEREAS, the City certifies that the population of the City is less than 150,000 persons as of the most recent United States Census date; and

WHEREAS, it is in the best interest of the City to pursue and apply for Clean Water State Revolving Fund financial assistance from WIFA in an amount not to exceed \$10,000,000 for the Project; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to the Project will be reimbursed from proceeds of a loan from WIFA or other source of financing.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

Section 1. The manager, deputy manager and the finance director of the City (collectively, the "Authorized City Representatives") are each hereby authorized to act on behalf of the City to apply for Clean Water State Revolving Fund financial assistance from WIFA.

Section 2. The Authorized City Representatives are hereby directed to take such actions as are necessary to apply for financial assistance from WIFA in an amount not to exceed \$10,000,000, and to identify that loan repayments will be payable from excise taxes and State shared revenues of the City.

Section 3.

(a) The following terms shall have the meanings assigned thereto as follows:

"official intent" means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation;

"original expenditure" means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond; and

"reimbursement bond" means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

(b) This resolution is official intent relating to reimbursement for the original expenditures for the Project which are capital expenditures (being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles) made within sixty (60) calendar days before and any time after the date of this resolution. The maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for the Project is expected not to exceed \$10,000,000.

(c) On the date of this resolution, the mayor and council of the City have a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that the City will reimburse such original expenditures with proceeds of such obligations. Official intents have not been declared by the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by any official intent.

(d) With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than eighteen (18) months after the later of the date that the original expenditure is paid or the date the project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid.

(e) This resolution shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the clerk of the City in the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

Section 4. If any section, paragraph, subdivision, sentence, clause or phrase of this resolution is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this resolution. The mayor and council of the City hereby declares that they would have adopted this resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the execution and delivery of the WIFA application or reimbursement of the Project pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this resolution may be held illegal, invalid or unenforceable. All ordinances, resolutions or parts thereof, inconsistent herewith, are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any ordinance or resolution or any part thereof.

Section 5. All actions of the officers and agents of the City including the mayor and council of the City which conform to the purposes and intent of this resolution and which further the preparation, execution, delivery and submittal of the WIFA application or reimbursement of the Project as contemplated by this resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS ___ DAY OF _____, 2024.

SIGNED AND ATTESTED TO THIS ___ DAY OF _____, 2024.

WALTER "CHIP" WILSON
Mayor

ATTEST:

JENNIFER PENA
City Clerk

APPROVED AS TO FORM:

 10.8.24

RICHARD JOEL STERN
City Attorney