

RESOLUTION NO. 19-29

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING THE SALE, EXECUTION AND DELIVERY OF PLEDGED REVENUE REFUNDING OBLIGATIONS, EVIDENCING ALL THE INTERESTS OF THE OWNER THEREOF IN A PURCHASE AGREEMENT, THE PROCEEDS OF WHICH WILL REFINANCE THE COSTS OF EXPANSION AND RENOVATION OF THE CITY'S PUBLIC LIBRARY; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH PURCHASE AGREEMENT, A TRUST AGREEMENT, A LETTER OF INSTRUCTION, AND OTHER NECESSARY DOCUMENTS; DELEGATING AUTHORITY TO THE CITY MANAGER AND THE ASSISTANT CITY MANAGER OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; AUTHORIZING THE PREPAYMENT IN ADVANCE OF MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION AND DECLARING AN EMERGENCY.

WHEREAS, the City of Apache Junction, Arizona (the "City") borrowed the principal amount of \$3,800,000 (the "Loan") from the Greater Arizona Development Authority (aka "GADA") pursuant to a Second Loan Repayment Agreement dated as of May 1, 2007 (the "Loan Agreement") to finance the costs of expansion and renovation of the City's Public Library (the "2007 Project") (located at 1177 N. Idaho Road, Apache Junction, AZ); and

WHEREAS, the Loan is secured by the City's irrevocable pledge of its Excise Taxes and State Shared Revenues (each as defined in the Loan Agreement) and remains outstanding in the aggregate principal amount of \$1,770,000 payable in various principal amounts on July 1 in the years 2020 through 2026, which principal amounts bear interest at rates per annum which vary from 4.375% to 5.000%; and

WHEREAS, the City has been advised that conditions in the municipal capital market have now improved from the conditions which prevailed at the time the Loan was made and that the City can issue obligations to refund all of the outstanding portion of the Loan (the "Obligation Being Refunded") with savings to the City expected in an amount equal to at least 3.0% of the principal amount of the Obligation Being Refunded; and

WHEREAS, the City desires to refinance a portion of the costs of the 2007 Project through the execution and delivery of Pledged Revenue Refunding Obligations, to be dated no earlier than December 1, 2019 (the "2019 Obligations"), by U.S. Bank National

Association, as Trustee (the "Trustee") pursuant to a Trust Agreement dated no earlier than December 1, 2019 (the "Trust Agreement") between the Trustee and the City, evidencing a proportionate interest of the owners thereof in a Purchase Agreement dated no earlier than December 1, 2019 (the "Purchase Agreement"), between the Trustee and the City; and

WHEREAS, a portion of the proceeds of the 2019 Obligations will be deposited with U.S. Bank National Association, as Depository Trustee (the "Depository Trustee") pursuant to a Letter of Instruction to be dated no earlier than December 1, 2019 by and between the City and the Depository Trustee, and used to defease the Obligation Being Refunded and redeem the same in advance of maturity as further set forth herein; and

WHEREAS, proposed forms of the following documents have been filed with the City Clerk:

- (i) the Purchase Agreement;
- (ii) the Trust Agreement; and
- (iii) the Letter of Instruction.

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

Section 1. Project Refinancing. It is hereby found and determined that the refinancing of a portion of the costs of the 2007 Project at fixed interest rates pursuant to the terms of the Purchase Agreement, the Trust Agreement, and the Letter of Instruction is in the best interest of and in furtherance of the purposes of the City and is in the public interest.

Section 2. Approval and Terms. The City hereby approves the execution and delivery of the 2019 Obligations, as hereinafter described, by the Trustee. The City Manager and the Assistant City Manager (the "Authorized Officer") are authorized to determine on behalf of the City the series name and designation of the 2019 Obligations; the date the 2019 Obligations are to be sold to the purchaser thereof; the total aggregate principal amount of the 2019 Obligations that are to be executed and delivered (but not to exceed \$1,900,000 in aggregate principal amount); the date the 2019 Obligations are to be dated; the dates on which interest on the 2019 Obligations is to be payable and the interest rates per annum the 2019 Obligations are to bear (but, except in the case of an event of default or an event of taxability, not greater than three percent (3%)); the dates the 2019 Obligations are to mature (but not later than seven (7) years from the date of the

execution and delivery of the 2019 Obligations), the principal amounts to mature on such dates and the provisions for prepayment thereof in advance of such dates; and the terms upon which the 2019 Obligations are to be sold (including without limitation determinations of price, and original issue discount and premium). If requested by the Purchaser (defined below), the 2019 Obligations may be executed and delivered in the form of a single-instrument obligation with an exhibit containing the principal payment or maturity amounts and applicable interest rates and due dates. If the 2019 Obligations are issued in the form of a single-instrument obligation, the Authorized Officer may determine by order that presentation and surrender of such obligation to the Trustee is not required for payment when due of some or all of the payments of principal of and interest on the 2019 Obligations, and in such case such payments shall be paid to the registered owner of the 2019 Obligations. The refinancing of the Obligation Being Refunded must result in a net present value savings of not less than 3.0% of the principal amount of the Obligation Being Refunded.

The forms and other terms of the 2019 Obligations, including the provisions for the signatures, authentication, payment, registration, transfer, exchange, prepayment and number shall be as set forth in the Trust Agreement and are approved.

Section 3. Approval of Documents. The form, terms and provisions of the Purchase Agreement, the Trust Agreement, and the Letter of Instruction, in substantially the form of such documents (including the 2019 Obligations and other exhibits thereto) presented to the Mayor and City Council and on file with the City Clerk are hereby approved, with such final provisions, insertions, deletions and changes as shall be approved by the Authorized Officer, the execution of each such document being conclusive evidence of such approval, and the Authorized Officer and the City Clerk are hereby authorized and directed to execute and deliver, where applicable, or approve the Purchase Agreement, the Trust Agreement, and the Letter of Instruction and to take all action to carry out and comply with the terms of such documents.

Section 4. Sale, Execution, Delivery, Transfer and Exchange of 2019 Obligations. The Authorized Officer shall sell the 2019 Obligations at a negotiated sale by means of sending a request for proposal, in a form to be approved by the Authorized Officer, to potential purchasers to be selected by the Authorized Officer following consultation with the City's registered municipal advisor, Piper Jaffray & Co. The City Council hereby determines that the sale of the 2019 Obligations pursuant to such a negotiated sale is in the best interests of the City and is the most cost effective and efficient way to sell the 2019 Obligations

to achieve net present value savings with respect to the debt service on the Obligation Being Refunded. Following the receipt of bids for the 2019 Obligations, the 2019 Obligations shall be awarded to the bidder (the "Purchaser") whose bid is the most favorable to the City, as determined by the Authorized Officer following consultation with the City's registered municipal advisor. The Authorized Officer shall execute an order (the "Sale Order"), which shall set forth the principal amount, principal maturities and dates, interest rates and interest payment dates, prepayment provisions, and purchase price to be paid by the Purchaser, as well as such other terms and provisions as the Authorized Officer determines to be necessary or appropriate in connection with the sale of the 2019 Obligations. The Mayor, the City Manager, the Assistant City Manager, the City Finance Director, the City Clerk, and other appropriate City employees and officials are each authorized to execute and deliver such certificates or documents as special counsel shall require and to do all things necessary to effectuate the sale, issuance, delivery, transfer and exchange of the 2019 Obligations in accordance with the provisions of this Resolution. In making the determination in the Sale Order with respect to principal maturities and dates, interest rates, prepayment provisions, and purchase price of the 2019 Obligations, the Authorized Officer shall be limited by the parameters set forth in Section 2 above.

Section 5. Trustee and Depository Trustee. The City hereby requests the Trustee and the Depository Trustee, as applicable, to take any and all action necessary in connection with the execution and delivery of the Purchase Agreement, the Trust Agreement, and the Letter of Instruction; the execution, delivery and sale of the 2019 Obligations; and the defeasance and prepayment of the Obligation Being Refunded; and further authorizes and directs the Trustee and any trustees for any obligations on a parity with the 2019 Obligations to enter into such agreements as may be reasonable for the administration of the trusts so held.

Section 6. Pledge of Revenues. Pursuant to the Purchase Agreement and the Trust Agreement, the City shall pledge its: (i) unrestricted excise, transaction, franchise, privilege and business taxes, fines and forfeitures, fees for licenses and permits, now or hereafter validly imposed by the City; provided, however, that the Mayor and Council of the City may impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of such Council; and (ii) revenues from any excise taxes, transaction privilege (sales) taxes and income taxes imposed by the State of Arizona or any agency thereof and returned, allocated or apportioned to the

City, except the City's share of any such taxes which by State law, rule or regulation must be expended for other purposes, such as motor vehicle fuel taxes (the "Pledged Revenues") to the amounts to come due under the Purchase Agreement and the Trust Agreement. The City's obligation to make the payments under the Purchase Agreement or the Trust Agreement does not constitute an obligation of the City or the State of Arizona, or any of its political subdivisions, for which the City or the State of Arizona, or any of its political subdivisions, is obligated to levy or pledge any form of ad valorem property taxation nor does the obligation to make any payments under the Purchase Agreement or the Trust Agreement constitute an indebtedness of the City or of the State of Arizona or any of its political subdivisions within the meaning of the Constitution of the State of Arizona or otherwise. The pledge of Pledged Revenues is on a parity with any existing pledges of the Pledged Revenues as may be described in the Trust Agreement.

Section 7. Covenants and Restrictions. The covenants and agreements contained in the Purchase Agreement as to the pledge of and the lien on the Pledged Revenues and the restriction on the issuance of further parity obligations secured by the Pledged Revenues are approved and confirmed.

Section 8. Resolution Irrepealable. After any of the 2019 Obligations are delivered by the Trustee to the Purchaser thereof upon receipt of payment therefor, this resolution shall be and remain irrepealable until the 2019 Obligations and the interest and premium, if any, thereon shall have been fully paid, cancelled and discharged.

Section 9. Execution of Documents. The Mayor, any member of the City Council, the City Manager, the Assistant City Manager, the City Clerk, and agents of the City, are each hereby authorized and directed, without further order of the City Council, 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 and the consummation of the transactions contemplated hereby.

Section 10. Ratification of Actions. All actions of the officers and agents of the City which conform to the purposes and intent of this resolution and which further the issuance and sale of the 2019 Obligations as contemplated by this resolution whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The aforementioned 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.

Section 11. Severability. 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.

Section 12. Waiver. 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 13. The immediate operation of this Resolution is necessary for the economic refinancing of the 2007 Project, the prepayment of the Loan, and the resulting preservation of the public health and welfare by expediting the same, and an emergency is hereby declared to exist. This Resolution shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City, as required by law, and is hereby exempt from the referendum provisions of the constitution and laws of the State of Arizona pursuant to A.R.S. § 19-142(B).

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS ____ DAY OF NOVEMBER, 2019.

SIGNED AND ATTESTED TO THIS ____ DAY OF NOVEMBER, 2019.

JEFF SERDY
Mayor

ATTEST:

JENNIFER PEÑA
City Clerk

APPROVED AS TO FORM:

ERIC MCGLOTHLIN
Special Counsel