



YAVAPAI COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 1971

A RESOLUTION OF THE BOARD OF SUPERVISORS OF YAVAPAI COUNTY, ARIZONA STATING ITS INTENTION TO INCUR LONG TERM OBLIGATIONS IN ONE OR MORE SERIES OF NOT TO EXCEED \$17,300,000 AGGREGATE PRINCIPAL AMOUNT FOR THE PURPOSE OF REFINANCING AND PREPAYING A PORTION OF THE COUNTY'S PAYMENT OBLIGATIONS UNDER A LEASE AGREEMENT DATED AS OF MAY 15, 2008, AS AMENDED, INCURRED TO FINANCE THE COSTS OF THE VERDE VALLEY SUPERIOR COURT BUILDING AND THE JUVENILE DETENTION FACILITY IN PRESCOTT LAKES; AUTHORIZING THE EXECUTION AND DELIVERY OF AGREEMENTS IN CONNECTION THEREWITH; AUTHORIZING OTHER ACTIONS AND MATTERS IN CONNECTION THEREWITH

WHEREAS, Yavapai County, Arizona (the "County") executed and delivered a Lease Agreement, dated as of May 15, 2008 (the "Lease Agreement") between the County and Banc of America Public Capital Corp (the "Lessor"), as amended, the proceeds of which financed the costs of constructing the Verde Valley Superior Court Building and the Juvenile Detention Facility in Prescott Lakes (together, the "Project"); and

WHEREAS, the Board of Supervisors (the "Board") of the County has determined that it is in the best interest of the County to refinance a portion of the County's obligations under the Lease Agreement by the issuance or incurrence of long-term obligations, in the form of a refinancing agreement (the "Refinancing Agreement") which produce a schedule of payments thereunder ("Payments") hereby found to be more favorable to the County and that the County intends to execute and deliver the Refinancing Agreement for such purpose in an aggregate principal amount not exceeding \$17,300,000, which Payments will be secured by and payable from a pledge of "Excise Taxes," comprising (a) the hereinafter-defined County General Excise Tax Revenues, and (b) the hereinafter-defined State Shared Revenues; and

WHEREAS, the County shall use the amounts received from the execution and delivery of the Refinancing Agreement to prepay on May 15, 2018 the principal amount under the Lease Agreement due after May 15, 2018 and to pay costs associated with the execution and delivery of the Refinancing Agreement, and the prepayment of such amount due under the Lease Agreement through a deposit of the amount advanced into a trust account with U.S. Bank National Association, as escrow trustee (the "Escrow Trustee") under an escrow agreement (the "Escrow Agreement") between the County and the Escrow Trustee; and

WHEREAS, in connection with the refinancing of the Project, Stifel, Nicolaus & Company, Incorporated (the "Placement Agent") will solicit proposals from financial institutions to refinance a portion of the County's payment obligations under the Lease Agreement and following the receipt of such proposals, the Chairman or another member of the Board, upon advice from the County Administrator or the Finance Director of the County, will determine the

financial institution or financial institutions (the “Lender”) selected to enter into the Refinancing Agreement with the County and meeting the requirements of this Resolution; and

WHEREAS, the expenditure of the Excise Taxes for the Project results in support and enhancement of countywide services by the County; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF YAVAPAI COUNTY, ARIZONA, as follows:

Section 1. Findings. The Board finds that:

(a) It is in the best interest of the County to refinance a portion of the County’s obligations under the Lease Agreement by the execution and delivery of the Refinancing Agreement which produces a schedule of Payments hereby found to be more favorable to the County.

(b) Pursuant to Section 11-391, Arizona Revised Statutes and pursuant to applicable notice, the Board conducted a public hearing on August 2, 2017 on a proposal to incur “Long-Term Obligations” of the County for such purposes.

(c) The Board, upon due consideration, has determined that there is a public need to employ such refinancing and is in this Resolution stating its intention to incur one or more Long-Term Obligations in the form of the Refinancing Agreement in an aggregate principal amount not exceeding \$17,300,000 for such purposes.

(d) There has been prepared and placed on file with the Clerk of the Board a proposed form of the Refinancing Agreement.

(e) The County has authority to execute and deliver the Refinancing Agreement and to perform the actions contemplated by such document, including without limitation pledging the Excise Taxes, comprising County General Excise Tax Revenues and State-Shared Revenues, to payment of the Payments under the Refinancing Agreement. “County General Excise Tax Revenues” means any amounts of the general excise tax of the County authorized by Section 42-6103, Arizona Revised Statutes, which the County imposes; provided that the County may, if permitted by law, impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of the Board of the County and which, if so restricted, will not be deemed Excise Tax Revenues for purposes of the Refinancing Agreement. “State Shared Revenues” means revenues from any excise taxes and transaction privilege (sales) taxes imposed by the State or any agency thereof and returned, allocated or apportioned to the County, except the County’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.

Section 2. Authorization to Approve, Sign and Deliver Refinancing Agreement and Documents and Take Actions. The Chairman and any other member of the Board (each an “Authorized Officer”) are each authorized and directed to sign and deliver in the name and on behalf of the County, and to cause the County to perform its obligations under, the Refinancing

Agreement, in an amount representing not more than \$17,300,000 aggregate principal amount to refinance a portion of the County's obligations under the Lease Agreement and to pay costs associated with the execution and delivery of such document and the prepayment of the Lease Agreement, and such other agreements, instruments and documents as are contemplated by that document and by this Resolution (collectively, the "County Documents"), with such changes, additions and deletions as any Authorized Officer may approve or deem necessary, appropriate or advisable to carry out the purposes and intent of this Resolution, and to perform all other acts that may be necessary in connection with the transactions contemplated by the County Documents and by this Resolution. The Authorized Officers, and each of them acting alone, are authorized and directed, in the name and on behalf of the County, to take or cause to be taken any and all further actions and to sign and deliver, or cause to be signed and delivered, all such further agreements and such further documents, certificates and undertakings, and to incur all such fees and expenses, as in their judgment shall be necessary, appropriate or advisable to carry into effect the purposes and intent of this Resolution and the transactions contemplated by this Resolution.

Section 3. Terms and Provisions Applicable to the Refinancing Agreement. The interest component of Payments under the Refinancing Agreement shall be computed using a rate of interest not exceeding two and one-half per cent (2.50%) per annum, provided that, to the extent provided in the Refinancing Agreement, as executed and delivered, for so long as there may exist any default under the Refinancing Agreement, such rate of interest shall not exceed the rate provided in the Refinancing Agreement, as executed and delivered. The final Payment due under the Refinancing Agreement shall be not later than May 15, 2028 and Payments under the Refinancing Agreement shall be pre-payable in whole or in part at the times provided in the Refinancing Agreement, as executed and delivered. The covenants and agreements contained in the Refinancing Agreement as to the pledge of and lien on the Excise Taxes is hereby approved and confirmed.

Section 4. Authorization to Award Long-Term Obligations to Lender. Upon receipt of proposals from financial institutions by the Placement Agent, an Authorized Officer, upon advice from the County Administrator or the Finance Director of the County, is hereby authorized to determine the Lender selected to enter into the Refinancing Agreement with the County upon terms meeting the requirements of this Resolution.

Section 5. Deposit, Holding and Disposition of Proceeds Derived from the Refinancing Agreement. The proceeds received by the County from the execution and delivery of the Refinancing Agreement shall be used to prepay on May 15, 2018 the unpaid principal amount due under the Lease Agreement after May 15, 2018 and to pay costs associated with the execution and delivery of the Refinancing Agreement and the prepayment of the Lease Agreement. Pending such use, the proceeds thereof shall be held by the Escrow Trustee under the Escrow Agreement or otherwise held in accounts established for such purpose, as determined by the County Administrator or the Finance Director of the County, and each of such officials is hereby authorized to select and engage escrow trustees, fiduciaries and custodians for such purposes. An Authorized Officer is hereby authorized, empowered and directed, for and on behalf of the County, to execute and deliver the Escrow Agreement and other documents relating to the deposit, holding and disposition of such proceeds.

Section 6. General Ratification and Approval. All actions of the officers, employees, and agents of the County that are in conformity with the purposes and intent of this Resolution and in furtherance of the execution and delivery of the County Documents as contemplated by this Resolution and the documents referred to in this Resolution, whether previously or hereafter taken, are hereby ratified, confirmed and approved. The officers, employees and agents of the County are hereby authorized and directed to do all such acts and things and to sign, acknowledge and deliver all such documents on behalf of the County as may be deemed necessary or desirable to carry out the terms and intent of this Resolution and of any of the documents referred to in this Resolution.

Section 7. Tax Matters. Any Authorized Officer is authorized to (a) make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of and in the name of the County with respect to the Refinancing Agreement as the County is permitted to make or give under the federal income tax laws, including, without limitation, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the interest component of Payments under the Refinancing Agreement or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments; (b) take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the County, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the interest component of Payments under the Refinancing Agreement; and (c) give one or more appropriate certificates, for inclusion in the transcript of proceedings for the County Documents, setting forth the reasonable expectations of the County regarding the amount and use of all the proceeds of the financing represented by the Refinancing Agreement, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the interest component of the Payments under the Refinancing Agreement.

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Approved and Adopted by the Yavapai County Board of Supervisors this 6th day of September 2017.

/s/ Thomas Thurman

Thomas Thurman, Chairman

ATTEST:

/s/ Kim Kapin

Kim Kapin, Clerk of the Board

APPROVED AS TO FORM AND DETERMINED TO BE WITHIN THE SCOPE OF PERFORMANCE
OF DUTY OF THE YAVAPAI COUNTY BOARD OF SUPERVISORS:

/s/ Timothy E. Pickrell

Timothy E. Pickrell

Special Counsel, Squire Patton Boggs (US) LLP