

RESOLUTION NO. 16-1093

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA FROM ITS CLEAN WATER REVOLVING FUND PROGRAM AND, IF NECESSARY, GUARANTY OR SIMILAR AGREEMENTS TO PROVIDE INSURANCE POLICIES OR SURETY BONDS NECESSARY IN CONNECTION THEREWITH; DELEGATING THE DETERMINATION OF CERTAIN MATTERS RELATING THERETO TO THE TOWN MANAGER OF THE TOWN; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO, AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY SUCH LOAN AGREEMENT AND THIS RESOLUTION AND DECLARING AN EMERGENCY

WHEREAS, the Mayor and Common Council of the Town of Chino Valley, Arizona (the "Town"), has heretofore applied to the Water Infrastructure Finance of Arizona (the "Authority"), for a loan (the "Loan") from the Authority's Clean Water Revolving Fund Program (the "Program") to provide funds to pay additional costs to design and install a sewer extension to the Mollie Rae Estates subdivision in the Town as well as the cost of the Program (collectively, the "Project"); and

WHEREAS, the terms and conditions under which the Loan will be made and the obligations of the Town with respect to the Loan will be set forth in a loan agreement to be executed and delivered by the Town and the Authority (the "Loan Agreement"); and

WHEREAS, the Loan and the loan repayments payable by the Town pursuant to the Loan Agreement (the "Loan Repayments") will be secured by a pledge of certain revenues to be received by the Town from the ownership, use or operation of the properties and facilities of the complete water and sewer plant and system of the Town and, initially, revenues from the unrestricted transaction privilege (sales) tax, business license and franchise fees, parks and recreation fees and permits and fines and forfeitures which the Town imposes; provided that the Mayor and Common Council of the Town may impose other transaction privilege taxes in the future, the uses of revenue from which will be restricted, at the discretion of such Common Council and 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 Town, except the Town'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 (collectively, the "Source of Payment"); and

WHEREAS, the Mayor and Common Council of the Town have determined that it will be beneficial to the citizens of the Town to enter into and to perform the Loan Agreement, whereby the Town will borrow not to exceed \$640,000 from the Authority; and

WHEREAS, the Loan shall be repaid before or on twenty (20) years from the date of the execution and delivery of the Loan Agreement and the Loan shall bear interest at a rate not to exceed four percent (4%) per annum; and

WHEREAS, the proposed form of the Loan Agreement has been placed on file with the Clerk of the Town and presented at the meeting at which this Resolution was adopted;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, THAT:

Section 1. The form, terms and provisions of the Loan Agreement, in the form of such document (including the exhibits thereto) presented at the meeting at which this Resolution was adopted are hereby approved, with such insertions, omissions and changes, not inconsistent with the Town's application to the Authority or the requirements of the federal government or the Authority or which would result in terms more adverse to the Town, as shall be approved by the Town Manager of the Town, the execution of such document being conclusive evidence of such approval, and the Mayor or, in the absence thereof, the Vice Mayor of the Town and the Clerk of the Town are hereby authorized and directed, for and on behalf of the Town, to execute and attest and deliver, respectively, the Loan Agreement.

Section 2. For the payment of the principal of and interest on the Loan, the Town shall pay the Loan Repayments provided for in the Loan Agreement. (The Town shall also pay all other amounts required to be paid by the Town pursuant to the provisions of the Loan Agreement.)

Section 3. The obligation of the Town to pay the Loan Repayments provided for in the Loan Agreement (as well as to make the other payments provided for in the Loan Agreement) is limited to payment from the Source of Repayment, and the obligations of the Town under the Loan Agreement shall not constitute nor give rise to a general obligation of the Town or any claim against its *ad valorem* property taxing powers or constitute an indebtedness within the meaning of any statutory or constitutional debt limitation applicable to the Town.

Section 4. The appropriate officials and officers of the Town are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to and to consummate the transactions contemplated by the Loan Agreement and by this Resolution, including, without limitation, the execution and delivery of any closing and other documents reasonably required to be delivered in connection therewith.

Section 5. 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 Common Council of the Town hereby declare that it 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 Loan Agreement 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 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 resolution or any part thereof.

Section 6. All actions of the officers and agents of the Town including the Mayor and Common Council of the Town which conform to the purposes and intent of this Resolution and which further the execution and delivery of the Loan Agreement as contemplated by this Resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved.

The proper officers and agents of the Town are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the Town as may be necessary to carry out the terms and intent of this Resolution.

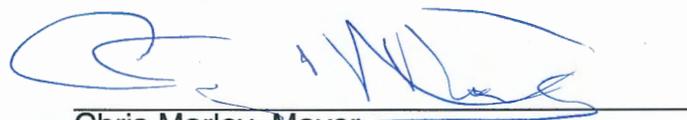
Section 7. All acts and conditions necessary to be performed by the Town or to have been met precedent to and in the execution and delivery of the Loan Agreement in order to make it a legal, valid and binding obligation of the Town will at the time of delivery of the Loan Agreement have been performed and have been met, in regular and due form as required by law, and no statutory, charter or constitutional limitation of indebtedness or taxation will have been exceeded in the execution and delivery of the Loan Agreement.

Section 8. All formal actions of the Mayor and Common Council of the Town concerning and relating to the passage of this Resolution were taken in an open meeting of the Mayor and Common Council of the Town, and all deliberations of the Mayor and Common Council of the Town and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 9. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public health and welfare and for the further reason that the execution and delivery at the earliest possible date of the Loan Agreement is urgently needed to attempt to secure the lowest possible interest cost to the City; therefore, an emergency is hereby declared to exist and this Resolution is enacted as an emergency measure and shall be in full force and effect from and after the passage and adoption by the Mayor and Common Council of the Town, as required by law, and this Resolution is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

Section 10. After the execution and delivery of the Loan Agreement and upon receipt of the Loan from the Authority, this Resolution shall be and remain irrevocable until the Loan and the Loan Agreement and the interest thereon shall have been fully paid, cancelled and discharged.

PASSED AND ADOPTED on November 8, 2016.


Chris Marley, Mayor

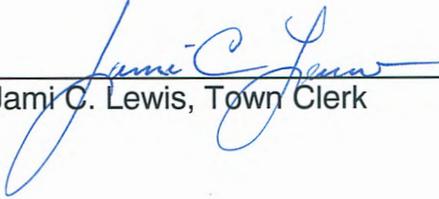
ATTEST:


Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:


Phyllis L.N. Smiley, Town Attorney

I hereby certify the above foregoing Resolution No. 16-1093 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on November 8, 2016, and that quorum was present thereat and that the vote thereon was 7 ayes and 0 nays and 0 abstentions. 0 Council members were absent or excused.



Jami C. Lewis, Town Clerk