

RESOLUTION NO. 2018-50

RESOLUTION AUTHORIZING AND DIRECTING THE TRANSFER OF SURPLUS MONEYS IN THE DEBT SERVICE FUND OF THE CITY TO AN IRREVOCABLE TRUST FUND TO BE USED TO DEFEASE A PORTION OF CERTAIN OUTSTANDING BONDS OF THE CITY; APPOINTING AN ESCROW TRUSTEE, APPROVING AN ESCROW TRUST AGREEMENT FOR THE SAFE KEEPING AND HANDLING OF SECURITIES AND MONEY TO BE USED TO PAY SUCH BONDS BEING DEFEASED AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH AGREEMENT; DELEGATING TO THE CHIEF FINANCIAL OFFICER OF THE CITY THE AUTHORITY TO DETERMINE VARIOUS MATTERS RELATING TO SUCH DEFEASANCE AND RATIFYING ALL ACTIONS TAKEN TO FURTHER THIS RESOLUTION

WHEREAS, the Mayor and Council of the City of Peoria, Arizona (hereinafter referred to as the "City"), has determined that it is expedient to defease bonds of the City to be selected by the Chief Financial Officer of the City (hereinafter referred to as, collectively, the "Bonds Being Defeased") with moneys in the interest and redemption funds for the Bonds Being Defeased (hereinafter referred to as the "Surplus Debt Service Moneys") which are currently over and above amounts needed to make payments on bonds of the City on or before the first day of the fiscal year next preceding (hereinafter referred to as the "Debt Service Funds"); and

WHEREAS, the laws of the State of Arizona permit the City to use the Surplus Debt Service Moneys to defease the Bonds Being Defeased; and

WHEREAS, all acts, conditions and things required by the constitution and laws of the State of Arizona to happen, exist and be performed precedent to and in the enactment of this Resolution have happened, exist and have been performed as so required in order to make this Resolution a valid and binding instrument for the defeasance of the Bonds Being Defeased;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, as follows:

Section 1. Escrow Trust Agreement; Redemption of Refunded Bonds.

(A) The amounts of the Surplus Debt Service Moneys directed by the Chief Financial Officer of the City (hereinafter referred to as the "Defeasance Amount") shall be transferred to the hereinafter defined Trust in an amount which, together with any earnings thereon, shall be sufficient to pay in full the Bonds Being Defeased and the costs and expenses related to providing for such defeasance (hereinafter referred to as the "Costs of Defeasance"). (The Chief Financial Officer of the City is hereby authorized to select the Bonds Being Defeased and to determine the Defeasance Amount.)

(B) The Mayor of the City, or in the absence thereof, the Vice Mayor of the City is hereby, authorized and directed to execute a standard form of irrevocable Escrow Trust Agreement (hereinafter referred to as the "Escrow Trust Agreement") with a bank authorized to do trust business in the State of Arizona (hereinafter referred to as the "Escrow Agent") with respect to the safekeeping and handling of the Defeasance Amount to be deposited therewith in the form of moneys and obligations issued by or guaranteed by the United States government

(hereinafter referred to as "Government Obligations"), so long as such Government Obligations shall mature with interest so as to provide funds to pay at maturity or upon earlier redemption the Bonds Being Defeased together with interest thereon and redemption premiums, if any, and such Government Obligations shall, and other funds legally available for such purposes may, be deposited in the Debt Service Funds and, until then, shall be held in trust (hereinafter referred to as the "Trust") for the payment of the Bonds Being Defeased with interest and redemption premiums, if any, at maturity or upon redemption, with such additions, deletions and modifications as shall be approved by the Chief Financial Officer of the City and to deliver the same to the Escrow Agent, and execution and delivery shall constitute conclusive evidence of the approval of such officer of any departures from the form submitted to the Mayor and Council of the City at the time of adoption of this Resolution. (The Escrow Agent shall be selected by the Chief Financial Officer of the City.)

(C) The Mayor and Council of the City hereby orders that the Bonds Being Defeased be paid at maturity or redeemed prior to their stated maturity dates in accordance with the schedule established by the Chief Financial Officer of the City. The Chief Financial Officer of the City is directed to cause notices of defeasance and of any redemption to be either mailed or published as required by the resolution authorizing the issuance of the Bonds Being Defeased.

(D) All actions to defease the Bonds Being Defeased whether taken before or after adoption of this Resolution are ratified and confirmed and approved, respectively.

Section 2. Use of Proceeds.

(A) The Defeasance Amount shall be applied to create the Trust pursuant to the Escrow Trust Agreement which shall be an irrevocable trust. As provided in Section 1(B) hereof, amounts credited to the Trust, other than any beginning cash balance and the amount to pay the Costs of Defeasance, shall be invested immediately in Government Obligations, the maturing principal of and interest on which, together with any beginning cash balance, are to be sufficient to pay the principal of and premium, if any, and interest on the Bonds Being Defeased as the same become due. (The Chief Financial Officer of the City is hereby authorized to determine the amount of the Defeasance Amount which shall be applied to pay the Costs of Defeasance and application of such amount for such purpose.)

(B) Any balance remaining after creation of the Trust shall be transferred to the Debt Service Funds for the remaining outstanding bonds of the City.

Section 3. Severability. 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 it would have adopted this Resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the establishment of the Trust 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.

Section 4. Ratification of Actions. 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 establishment of the Trust 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.

Section 5. Resolution a Contract. This Resolution shall constitute a contract between the City and the owners of the Bonds Being Defeased and, upon execution and delivery of the Escrow Trust Agreement, shall not be repealed or amended in any manner which would impair, impede or lessen the rights of the owners of the Bonds Being Defeased then outstanding.

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 17th day of April, 2018.

CITY OF PEORIA, an Arizona municipal corporation

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Steve Burg, City Attorney

Effective Date: _____