

## **RESOLUTION NO. 2019-01**

RESOLUTION OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF YUMA, ARIZONA, PROVIDING FOR AND AUTHORIZING THE FINANCING OF EQUIPMENT, TO BE LOCATED AT THE HEALTH CARE FACILITIES OPERATED BY YUMA REGIONAL MEDICAL CENTER AND PROVIDING APPROVAL FOR AND AUTHORIZING AN EQUIPMENT LEASE THROUGH THE EXECUTION AND DELIVERY OF AN EQUIPMENT SCHEDULE TO A MASTER LEASE AND SUBLEASE AGREEMENT AND RELATED DOCUMENTS FOR THE BENEFIT OF YUMA REGIONAL MEDICAL CENTER, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000.

WHEREAS, The Industrial Development Authority of the City of Yuma, Arizona (the "Authority"), a nonprofit corporation designated a political subdivision of the State of Arizona (the "State") and incorporated with the approval of the City of Yuma (the "City") pursuant to the provisions of the Constitution of the State and under Title 35, Chapter 5, Arizona Revised Statutes ("A.R.S."), as amended (the "Act"), is authorized and empowered, among other things to finance or refinance the cost of any "project" as defined in the Act, including, without limiting the generality of the foregoing, the construction and equipping of facilities for a health care institution as defined in A.R.S. § 36-401; and

WHEREAS, Yuma Regional Medical Center is an Arizona nonprofit corporation (the "Corporation") which operates hospital and other health care facilities and provides hospital and other health care services to the residents of the City and surrounding areas; and

WHEREAS, the Authority had previously assisted the Corporation with the financing and refinancing of the costs of acquiring hospital equipment, including software, for use in certain facilities of the Corporation pursuant to a Master Lease and Sublease Agreement, dated as of March 1, 2017 (the "Master Agreement"), and Equipment Schedule No. 1 to the Master Agreement and Equipment Schedule No. 2 to the Master Agreement, each dated March 14, 2017, all of which were among Banc of America Public Capital Corp, as lessor (the "Lessor"), the Authority, as lessee, and the Corporation, as sub-lessee; and

WHEREAS, pursuant to the Master Agreement, one or more equipment schedules substantially in the form attached thereto as Exhibit A may be executed from time to time to supplement the Master Agreement to provide for additional equipment leases to finance hospital equipment to be used in connection with the Corporation's health care facilities; and

WHEREAS, the Corporation has requested the Authority assist the Corporation through the execution and delivery of an Equipment Schedule No. 3 to Master Lease and Sublease Agreement (the "Equipment Schedule No. 3") to provide for an equipment lease (the "2019 Lease") for the purposes of financing: (i) all or a portion of the costs of acquiring hospital equipment for use in certain facilities of the Corporation (the "2019 Facilities"); and (ii) certain

costs incurred in connection with the execution and delivery of Equipment Schedule No. 3 and related documents (together, the “2019 Project”), all in accordance with the Act; and

WHEREAS, in furtherance of the purposes of the Act, the Authority proposes to execute and deliver Equipment Schedule No. 3 to provide for the 2019 Lease, the proceeds derived therefrom which will assist the Corporation to pay costs of the 2019 Project; and

WHEREAS, the Corporation and the Authority will enter into Equipment Schedule No. 3 with the Lessor or its designee; and

WHEREAS, there has been presented at this meeting, and which are on file with the counsel to the Authority, the proposed form of Equipment Schedule No. 3; and

WHEREAS, the Corporation has agreed to make payments sufficient to pay the lease payments in accordance with the 2019 Lease, and the Corporation, by submitting its application to the Authority, has (i) agreed to indemnify the Authority as to any and all expenses as may be incurred by the Authority, this Board and its advisors (including reasonable attorneys’ fees) in connection with the execution and delivery of Equipment Schedule No. 3; and (ii) acknowledged and agreed that the 2019 Lease shall not constitute a pledge of the general credit or taxing powers of the City or any other political subdivision of the State; and

WHEREAS, it appears to this Board that the execution and delivery of the above-referenced documents by the respective parties named therein and, where applicable, the consent thereto by the Authority, and the execution and delivery of Equipment Schedule No. 3 and any related documents by the Authority as contemplated by such documents and the effect thereof will be in the furtherance of the purposes of the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF YUMA, ARIZONA THAT:

1. It is hereby determined that: (i) the 2019 Facilities constitute a “health care institution” and the 2019 Project to be financed is a “project,” each as defined in the Act; (ii) the execution and delivery of the Equipment Schedule No. 3 to provide for the 2019 Lease will serve the purpose provided in the Act; (iii) the financing of the 2019 Project is in the public interest, is consistent with the purposes of the Act and will benefit the people of the City; and (iv) the execution and delivery of the Equipment Schedule No. 3 in accordance with this Resolution is required to finance the 2019 Project.

2. Pursuant to the Act and for the purpose of providing moneys to be loaned to the Corporation for the purposes described in the preambles, the Authority hereby authorizes and approves the execution and delivery of Equipment Schedule No. 3 to provide for the 2019 Lease. The 2019 Lease shall be a limited obligation of the Authority, with the payments thereunder being payable by the Authority solely out of the lease payments to be made by the Corporation under the Master Agreement and Equipment Schedule No. 3, and the 2019 Lease shall not constitute an indebtedness of the State of Arizona, the Authority or the City within the meaning of any Arizona constitutional provision or statutory limitation, or give rise to a pecuniary liability of the State of Arizona, the Authority or the City.

3. The 2019 Lease shall not exceed an aggregate principal amount of \$20,000,000 and shall be payable as provided therein. The 2019 Lease shall terminate, be in such form, payable on such dates and have such other terms and conditions as are provided in the Master Agreement and Equipment Schedule No. 3, with such additions, deletions, and modifications therein as may be consistent with this Resolution.

4. The President, any Vice President, the Secretary, the Treasurer or any Assistant Secretary or Treasurer (each an "Authority Officer") is each hereby authorized and directed to execute Equipment Schedule No. 3, containing terms which are not inconsistent with this Resolution.

5. The form, terms and provisions of Equipment Schedule No. 3 are hereby approved, with such insertions, deletions and changes as are not inconsistent herewith and as are approved by the Authority Officer (which approval will be conclusively established by their execution thereof). Any Authority Officer is hereby authorized and directed to execute Equipment Schedule No. 3 and each is hereby authorized to attest, if required, any signature on Equipment Schedule No. 3, and each is hereby authorized to cause them to be delivered. Any such signatures may be by facsimile.

6. Each Authority Officer and the counsel to the Authority is hereby authorized and directed to take any and all actions necessary or appropriate, and not inconsistent with the terms of this Resolution and of Equipment Schedule No. 3, to effect the execution and delivery of Equipment Schedule No. 3 to the Lessor, including, without limitation, furnishing of appropriate certificates and other instruments contemplated by this Resolution, the Master Agreement and Equipment Schedule No. 3 and conducting any public hearing required by federal tax law.

7. Any Authority Officer is authorized to execute and deliver or accept, as applicable, on behalf of the Authority, a Memorandum of Agreement between the Authority and the Corporation, any tax compliance certificate, any Escrow Agreement, and any other certificates, documents, financing statements and instruments in connection with the transactions authorized and contemplated in this Resolution, and to take all actions required of the Authority pursuant to Equipment Schedule No. 3 and any tax compliance certificate. The President or any Vice President of the Authority is hereby authorized, upon the request of the Authorized Officer of the Corporation (as defined in the Master Agreement), from time to time, to execute, on behalf of the Authority, any amendment to Equipment Schedule No. 3.

8. All actions of the officers, directors and agents of the Authority that are in conformity with the purpose and intent of this Resolution and in furtherance of the execution and delivery of Equipment Schedule No. 3 to provide for the 2019 Lease as contemplated by this Resolution and the documents referred to herein, whether heretofore or hereafter taken, shall be and are hereby ratified, confirmed and approved.

9. The Authority agrees that Orrick, Herrington & Sutcliffe LLP shall serve as special tax counsel ("Special Tax Counsel") to the Corporation in connection with the execution and delivery of the Equipment Schedule No. 3 and, as a condition to the execution and delivery of the Equipment Schedule No. 3, shall render its legal opinion that the 2019 Lease is a legal, valid and enforceable obligation of the Authority.

10. There shall be in full force and effect, at the time of the execution and delivery of Equipment Schedule No. 3, such rulings, approvals, consents, certificates, opinions of counsel and other instruments and proceedings satisfactory to the Authority, the Corporation and Special Tax Counsel, as shall be required by the Authority, the Corporation, Special Tax Counsel or the Lessor.

11. Nothing contained in this Resolution or in Equipment Schedule No. 3 or any other instrument or related document shall be construed as obligating the Authority, except to the extent provided in such documents or related document, or the City, as incurring a charge upon the general credit of the Authority or of the City, nor shall the breach of any agreement contained in this Resolution, Equipment Schedule No. 3 or any other instrument or document executed in connection therewith impose any charge upon the general credit of the Authority or of the City.

12. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

13. The Authority hereby waives the requirement, if any, under any procedural pamphlet or resolution of the Authority requiring the adoption of a resolution by this Board granting preliminary approval of Equipment Schedule No. 3 to provide for the 2019 Lease. Any provisions of any procedural pamphlet or resolution of the Authority inconsistent with this Resolution or Equipment Schedule No. 3 are hereby waived only to the extent of such inconsistency. This waiver shall not be construed as repealing any bylaw, order, procedural pamphlet or resolution or any part thereof, nor shall this waiver be effective if it infers any liability upon the Authority, its governing body, members and staffs, accountants, attorneys and consultants.

14. It is found and determined that all formal actions of the Authority and its Board of Directors concerning and relating to the adoption of this Resolution were adopted in an open meeting, and that all deliberations that resulted in those formal actions were in meetings open to the public and in compliance with all legal requirements of the State of Arizona and the Authority.

15. Notice of A.R.S. § 38-511 is hereby given, the provisions of which are incorporated by reference herein to the extent applicable to the matters contained herein under the laws of the State of Arizona.

16. This Resolution shall expire December 16, 2019, unless Equipment Schedule No. 3 is executed and delivered or the Authority has granted an extension of time.

17. This Resolution shall be effective immediately.

ADOPTED AND APPROVED this 16<sup>th</sup> day of July, 2019.

THE INDUSTRIAL DEVELOPMENT  
AUTHORITY OF THE CITY OF YUMA,  
ARIZONA

By



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President