

RESOLUTION NO. 21-89

RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF \$2,500,000 AGGREGATE PRINCIPAL AMOUNT OF HEBER-OVERGAARD UNIFIED SCHOOL DISTRICT NO. 6 OF NAVAJO COUNTY, ARIZONA, SCHOOL IMPROVEMENT BONDS, SERIES 1989; PROVIDING FOR THE ANNUAL LEVY OF A TAX FOR THE PAYMENT OF THE BONDS; ACCEPTING A PROPOSAL FOR THE PURCHASE OF THE BONDS; APPOINTING A REGISTRAR, TRANSFER AND PAYING AGENT WITH RESPECT TO THE BONDS; APPROVING THE FORM OF CONTRACT FOR SUCH REGISTRAR, TRANSFER AND PAYING AGENT; MAKING CERTAIN TAX COVENANTS; APPROVING A FEE PAYMENT AGREEMENT FOR PAYMENT TO THE COUNTY TREASURER OF THE FEES AND COSTS OF THE REGISTRAR, TRANSFER AND PAYING AGENT; APPROVING A BOND PURCHASE AGREEMENT AND AUTHORIZING ITS EXECUTION; RATIFYING ALL ACTIONS TAKEN WITH RESPECT TO THE PREPARATION AND DISSEMINATION OF A PRELIMINARY OFFICIAL STATEMENT; APPROVING A FORM OF OFFICIAL STATEMENT; AUTHORIZING THE CHAIRMAN TO EXECUTE THE OFFICIAL STATEMENT; AND AUTHORIZING CIRCULATION OF THE OFFICIAL STATEMENT.

WHEREAS, by the vote of a majority of the qualified electors of Heber-Overgaard Unified School District No. 6 of Navajo County, Arizona (the "District"), voting at a special bond election held in and for the District on November 8, 1988, the issuance of \$2,500,000 School Improvement Bonds of the District has been authorized; and

WHEREAS, pursuant to the request of the Governing Board of the District, such school improvement bonds are to be issued and sold at this time; and

WHEREAS, the Governing Board of the District has received a bid from Young, Smith & Peacock, Inc. (the "Underwriter") and said District requested that the bonds be sold through negotiation to the Underwriter; and

WHEREAS, by this resolution this Board will approve a bond purchase agreement for the sale of the bonds to the Underwriter; and

WHEREAS, by this resolution this Board will authorize the issuance and sale of such bonds to the Underwriter in accordance with the bond purchase agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF NAVAJO COUNTY, ARIZONA, AS FOLLOWS:

Section 1. Authorization. There is hereby authorized to be issued and sold an issue of bonds of the District in an aggregate principal amount of \$2,500,000.

The bonds so authorized shall be designated Heber-Overgaard Unified School District No. 6 of Navajo County, Arizona, School Improvement Bonds, Series 1989 (the "Bonds"), and shall be issued and sold as directed by this Board in accordance with the provisions of applicable laws.

Section 2. Terms. The Bonds will be dated March 1, 1989, and will bear interest from their date to the maturity of each of the Bonds at the interest rates and amounts set forth below. Interest on the Bonds shall be payable on January 1, 1990, and semiannually thereafter on each succeeding July 1 and January 1 during the term of the Bonds. The Bonds are to be used in the denomination of \$5,000 each or integral multiples thereof, and in fully registered form. The Bonds will mature on July 1 in the years and amounts set forth below:

<u>Maturity Date</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest Rate</u>
1992	\$125,000	9.25%
1993	150,000	9.25%
1994	150,000	9.25%
1995	175,000	9.25%
1996	175,000	8.00%
1997	200,000	7.05%
1998	200,000	7.10%
1999	225,000	7.15%
2000	250,000	7.25%
2001	275,000	7.25%
2002	275,000	7.30%
2003	300,000	7.35%

The Bonds shall be sold under the terms and conditions set forth in the bond purchase agreement and shall have such terms and provisions as are set forth therein and in the form of Bond.

The distribution by the Underwriter of a Preliminary Official Statement to prospective investors is hereby ratified, confirmed and approved. The use and distribution by the Underwriter of the Official Statement in connection with the offering and sale of the Bonds is hereby approved and authorized. Such Official Statement shall be in substantially the form presented to this meeting with such changes or amendments as approved by the persons signing such Official Statement.

Section 3. Prior Redemption.

A. Redemption. Bonds maturing on or before July 1, 1999, are not subject to call for redemption prior to maturity. Bonds maturing on or after July 1, 2000, are subject to call for redemption prior to maturity, in whole or in part, on July 1, 1999, or on any interest payment date thereafter by the payment of a redemption price equal to the principal amount of each Bond called for redemption plus accrued interest to the date fixed for redemption plus a premium payable from any source lawfully available therefor, the premium (calculated as a percentage of the principal amount of the Bonds to be redeemed) to be computed as follows:

<u>Redemption Dates</u>	<u>Premium</u>
July 1, 1999 and January 1, 2000	1.0%
July 1, 2000 and January 1, 2001	0.5%
and thereafter without premium.	

B. Notice of Redemption. Notice of the redemption of any Bond will be mailed not more than sixty (60) nor less than thirty (30) days prior to the date set for redemption to the registered owner of the Bond or Bonds being redeemed at the address shown on the bond register maintained by the registrar. Failure to properly give notice of redemption shall not affect the redemption of any Bond for which notice was properly given.

C. Effect of Call for Redemption. On the date designated for redemption by notice given as herein provided, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, and, if moneys for payment of the redemption price are held in separate accounts by the paying agent, interest on such Bonds or portions of Bonds so called for redemption shall cease to accrue, such Bonds shall cease to be entitled to any benefit or security hereunder and the owners of such Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and such Bonds shall be deemed paid and no longer outstanding.

D. Redemption of Less Than All of a Bond. The District may redeem an amount which is included in a Bond in the denomination in excess of, but divisible by, \$5,000. In that event, the registered owner shall submit the Bond for partial redemption and the paying agent shall make such partial payment and the Registrar shall cause to be issued a new Bond in a principal amount which reflects the redemption

so made to be authenticated and delivered to the registered owner thereof.

Section 4. Security. For the purpose of paying the principal of, interest and premium (if any) on early redemption and costs of administration of the registration and payment of the Bonds there shall be levied on all the taxable property in the District a continuing, direct, annual, ad valorem tax sufficient to pay all such principal, interest, premium and administration costs on the Bonds as the same becomes due, such taxes to be levied, assessed and collected at the same time and in the same manner as other taxes are levied, assessed and collected. The proceeds of the taxes shall be kept in a special fund entitled the Debt Service Fund of the District and shall be used only for the payment of principal, interest or premium (if any) as above-stated.

Section 5. Use of Proceeds; Debt Service Funds. The net proceeds from the sale of the Bonds, after payment of the expenses of issuance, shall be set aside and deposited by the County Treasurer in a separate fund entitled the Heber-Overgaard Unified School District No. 6 of Navajo County, Arizona, School Improvement Bonds, Series 1989 Building Fund. Subject to the provisions of Section 13 hereof, this resolution shall be construed as consent of the Board of Supervisors to invest such funds, pending use, in any of the securities allowed by A.R.S. § 15-1025. This resolution shall constitute a continuing consent to such investment and no further annual consent need be given; provided, however, that this Board may revoke such consent for any fiscal year after fiscal year 1989-90. The proceeds of the Bonds shall be expended only for the purpose set forth in the ballot used at the special bond election wherein issuance of the Bonds was approved.

All moneys deposited to the debt service fund of the District may be invested in the same manner as the Heber-Overgaard Unified School District No. 6 of Navajo County, Arizona, School Improvement Bonds, Series 1989 Building Fund and this resolution shall be construed to be a consent to such investments and shall also be construed to be continuing.

Section 6. Form of Bonds. Pursuant to A.R.S. § 35-491, a fully registered bond form is adopted as an alternative to the form of bond provided in A.R.S. § 15-1023. A registrar and paying agent will be appointed for the administration of the Bonds. The Bonds shall be in substantially the form of Exhibit A, attached hereto and incorporated by reference herein, with such necessary and

appropriate omissions, insertions and variations as are permitted or required hereby or by the Bond Purchase Agreement and are approved by those officers executing the Bonds and execution thereof by such officers shall constitute conclusive evidence of such approval.

The Bonds may have notations, legends or endorsements required by law, securities exchange rule or usage. Each Bond shall show both the date of the issue and the date of such Bond's authentication and registration.

The Bonds are prohibited from being converted to coupon or bearer Bonds without the consent of the Board of Supervisors and approval of bond counsel.

Section 7. Execution of Bonds. The Bonds shall be executed for and on behalf of the District by the President and attested by the Clerk of the Governing Board and countersigned by the Chairman of the Board of Supervisors of this County by their manual or facsimile signatures.

If an officer whose signature is on a Bond no longer holds that office at the time the Bond is authenticated and registered, the Bond shall nevertheless be valid.

A Bond shall not be valid or binding until authenticated by the manual signature of an authorized representative of the registrar. The signature of the authorized representative of the registrar shall be conclusive evidence that the Bond has been authenticated and issued pursuant to this resolution.

Section 8. Mutilated, Lost or Destroyed Bonds. In case any Bond becomes mutilated or destroyed or lost, the District shall cause to be executed and delivered a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond or in lieu of and in substitution for such Bond destroyed or lost, upon the registered owner's paying the reasonable expenses and charges of the District in connection therewith and, in the case of the Bond destroyed or lost, filing with the County Treasurer by the registered owner evidence satisfactory to the Treasurer that such Bond was destroyed or lost, and furnishing the County Treasurer with a sufficient indemnity bond pursuant to § 47-8405, Arizona Revised Statutes.

Section 9. Acceptance of Offer; Sale of Bonds; Bond Purchase Agreement Approval and Authorization to Execute. The bid of Young, Smith & Peacock, Inc. (the "Underwriter") for the purchase of the Bonds is in the form of a bond purchase agreement (the "Bond Purchase Agreement")

submitted to and on file with the Clerk of this Board and is hereby accepted and the Bonds are hereby ordered sold to the Underwriter in accordance with the terms of the Bond Purchase Agreement and the Chairman and Clerk are hereby authorized and directed to execute and deliver the Bond Purchase Agreement to the Underwriter in substantially the form presented to this Board with such necessary and appropriate omissions, insertions and variations as are permitted or required hereby and are approved by those officers executing the Bond Purchase Agreement and execution thereof by such officers shall constitute conclusive evidence of such approval.

The County Treasurer is hereby authorized and directed to cause the Bonds to be delivered to the purchaser upon receipt of payment therefor and satisfaction of the other conditions for delivery thereof in accordance with the terms of the sale.

Section 10. Registrar. The District will maintain an office or agency where Bonds may be presented for registration of transfer (the "Registrar") and an office or agency where Bonds may be presented for payment (the "Paying Agent"). The District may appoint one or more co-registrars or one or more additional Paying Agents. The Registrar and Paying Agent may make reasonable rules and set reasonable requirements for their respective functions with respect to the owners of the Bonds.

Initially, The Valley National Bank of Arizona, Phoenix, Arizona, is appointed to act as Registrar and Paying Agent with respect to the Bonds. The District may change the Registrar or Paying Agent without notice to or consent of owners of the Bonds and the District may act in any such capacity.

The Registrar's fee payment agreement between the County and the District is hereby approved in substantially the form on file with the Clerk, to provide for the payment of the costs of registration and printing of the Bonds. The contract for Registrar's services is hereby approved in substantially the form on file with the Clerk to provide for the payment of Registrar's services. Upon full execution of the Registrar's fee payment agreement, the Chairman of this Board and the Treasurer are hereby authorized and directed to execute and deliver the contract.

Each Paying Agent shall be required to agree in writing that the Paying Agent will hold in trust for the benefit of the owners of the Bonds all money held by the Paying Agent for the payment of principal of and interest and any premium on the Bonds.

The Registrar may appoint an authenticating agent acceptable to the District to authenticate Bonds. An authenticating agent may authenticate Bonds whenever the Registrar may do so. Each reference in this resolution to authentication by the Registrar includes authentication by an authenticating agent acting on behalf and in the name of the Registrar and subject to the Registrar's direction.

The Registrar shall keep a register of the Bonds, the registered owners of the Bonds and of transfer of the Bonds. When Bonds are presented to the Registrar or a co-registrar with a request to register transfer, the Registrar shall register the transfer on the registration books if its requirements for transfer are met and shall authenticate and deliver one or more Bonds registered in the name of the transferee of the same principal amount, maturity and rate of interest as the surrender Bonds. The "Record Date" for the Bonds shall be the close of business of the Registrar on the fifteenth day of the month preceding an interest payment date. Bonds presented to the Registrar for transfer after the close of business on the Record Date and before the close of business on the next subsequent interest payment date will be registered in the name of the transferee but the interest payment will be made payable to and mailed to the registered owners shown on the books of the Registrar as of the close of business on the respective Record Date.

The Registrar shall authenticate Bonds for original issue up to \$2,500,000 in aggregate principal amount upon the written request of the County Treasurer. The Registrar shall keep a register of the Bonds and of their transfer. The aggregate principal amount of Bonds outstanding at any time may not exceed that amount except for replacement Bonds as to which the requirements of the Registrar and the District are met.

Section 11. Resolution a Contract. This resolution shall constitute a contract between the District and the registered owners of the Bonds and shall not be repealed or amended in any manner which would impair, impede or lessen the rights of the registered owners of the Bonds then outstanding.

Section 12. Ratification of Actions. All actions of the officers and agents of the District, the County or the Board of Supervisors which conform to the purposes and intent of this resolution and which further the issuance and sale of the Bonds as contemplated by this resolution whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the District and the County are hereby authorized and directed to do all such acts and things and to execute and deliver

all such documents on behalf of the District as may be necessary to carry out the terms and intent of this resolution.

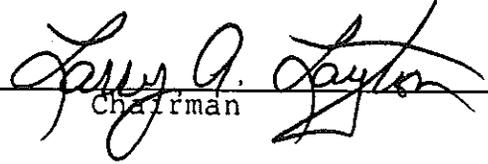
Section 13. Tax Covenant. In consideration of the purchase and acceptance of the Bonds by the owners thereof and, as authorized by Arizona Revised Statutes, Title 35, Chapter 3, Article 7, and in consideration of retaining the exclusion of interest income on the Bonds from gross income for federal income tax purposes, the County covenants with the owners from time to time of the Bonds to neither take nor fail to take any action which action or failure to act is within its power and authority and would result in interest income on the Bonds becoming subject to inclusion as gross income for federal income tax purposes under either laws existing on the date of issuance of the Bonds or such laws as they may be modified or amended.

The County agrees that it will comply with and will take any such action(s) as in the opinion of Gust, Rosenfeld & Henderson ("bond counsel") are necessary to prevent interest income on the Bonds becoming subject to inclusion in gross income for federal income tax purposes. Such requirements may include but are not limited to making further specific covenants; making truthful certifications and representations and giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements to be prepared by bond counsel; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to the Bonds; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys relating to the Bonds; and limiting the use of the proceeds of the Bonds and property financed thereby.

Section 14. 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 Board of Supervisors 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 issuance of the bonds 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.

PASSED, ADOPTED AND APPROVED by the Board of Supervisors of Navajo County, Arizona, on March 20, 1989.


Chairman

ATTEST:


Clerk