



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: May 17, 2017

DEPARTMENT: City Attorney

DIVISION:

- ☐ Motion
- ☒ Resolution
- ☐ Ordinance - Introduction
- ☐ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Transfer Agreement, Promissory Note, Rental Assistance Demonstration Program

SUMMARY RECOMMENDATION:

Approve the terms for transfer of City funds to the Housing Authority of the City of Yuma (HACY) pursuant to a Transfer Agreement, promissory note, joint account agreement, guaranty, deed of trust, security agreement, and approve the execution of all documents necessary to convert 235 City-owned and HACY-managed public housing units to the United States Department of Housing and Urban Development (HUD) Rental Assistance Demonstration Program

(City Attorney) (Richard W. Files)

REPORT:

The Rental Assistance Demonstration (RAD) Program was created by Congress in 2012 to provide public housing authorities with a tool to preserve and improve public housing properties by moving the units from the Public Housing program to the Section 8 program (converting from one form of federal funding to another). The way the RAD program works is through a long-term Section 8 contract referred to as a Housing Assistance Payments (HAP) contract. The HAP contract requires the owner to rent to low-income qualified households who pay 30% of their income as rent. The difference between pre-established rents in the HAP contract and the 30% of income rent paid by the qualifying tenant, are paid to the owner as a subsidy under Section 8 of the Housing Act.

The HAP contracts are long term and the income stream qualifies for private financing attached to low income housing tax credits. This opens the financial markets and ensures that the units remain permanently affordable to low-income households as investors in the private market do not want to jeopardize their tax-credited investment. In 2015 Congress reauthorized RAD and increased the program cap to 185,000 units with a termination date of September 30, 2018, unless further extended or made permanent.

As part of the City Council's efforts to support low income housing in Yuma, on April 19, 2017, the City Council approved Ordinance No. O2017-009 authorizing a transfer of up to \$1,900,000.00 between the City of Yuma (City) and the Housing Authority of the City of Yuma (HACY), an agency created by the City to construct, maintain, operate, and manage public housing projects for the City. The purpose of the transfer is to allow HACY to convert to the RAD Program free of the debt remaining from a 2010 Repayment Agreement in which HACY, with HUD's consent, agreed to repay itself money lost during the 2008 financial crisis and housing market meltdown. Ordinance No. O2017-009 requires City

Council approval of an agreement ("Transfer Agreement") establishing the terms for the transfer of funds.

Additionally, Ordinance No. O2017-009 authorizes the conversion of up to 235 units of public housing owned by the City into the RAD Program, subject to City Council approval of the necessary RAD conversion documents.

The proposed resolution incorporates the Transfer Agreement attached as Exhibit 1 to the Resolution which provides for a \$1,900,000.00 transfer of City funds to HACY. The transferred funds will be held in a joint account that will require signatures of both the City and HACY for any disbursement from the joint account. The transfer of funds will be evidenced by a Promissory Note in the amount of \$1,900,000, signed by HACY in favor of the City (Exhibit A to the Transfer Agreement). Providing for a term (maturity date) of 18 years, the Promissory Note allows the City to call the note after 90 days. This means that 90 days from the date of the transfer of funds, the City can demand repayment of the note in full and HACY must repay the note, together with accrued interest, within 5 days of the demand. The interest rate on the note is 12% per year, but if the note is repaid during the first year from the date of transfer, the interest rate is reduced to 3% per year. The \$1,900,000 transfer is shown as a debt on HUD Form 52624 (Sources and Uses balance sheet - contained in Exhibit D to the RAD Conversion Commitment)

While on deposit, the transferred funds will be subject to a HUD General Depository Agreement (Exhibit B to the Transfer Agreement), and securitized by a Continuing Guaranty (Exhibit C to the Transfer Agreement) from the Arizona Housing Development Corporation (AHDC), a nonprofit subsidiary of HACY, as Guarantor. The Guaranty is for \$847,946.00 of the Promissory Note, and is secured by a deed of trust on three properties in Trails Estates owned by AHDC (Exhibit D to the Transfer Agreement), and a Security Agreement granting the City a security interest in ADHC receivables totaling \$547,946.00 (Exhibit F to the Transfer Agreement). The Yuma County Assessor estimates the full cash value of the three Trail Estates homes at approximately \$82,200 - \$82,300 each, and the cash receivables will come to ADHC with the construction of the a low income housing project on Arizona Avenue.

The proposed Resolution also authorizes the City, as the owner of the 235 units being converted into HUD's Rental Assistance Demonstration Program, to enter into the following Agreements as a necessary party:

Exhibit 2 – RAD Conversion Commitment with extensions

Exhibit D to the RAD Conversion Commitment – Sources and Uses (balance sheet)

Exhibit 3 – RAD Use Agreements; 3A, 3B and 3C

Exhibit 4 – HAP Contract #1

Exhibit 5 – HAP Contract #2

Exhibit 6 – HAP Contract #3

Exhibit 7 – City Attorney's Legal Opinion and Certification of Project Owner

Exhibit 8 – Certification and Assurances

Exhibit 9 – Operation and Maintenance Agreement with HACY (for the maintenance, operation and management of the City's public housing units).

In order to make the RAD conversion, HACY is committing \$852,132 of its operating reserves (see Exhibit D to RAD Conversion Agreement) to rehabilitate the City-owned properties to required housing quality standards by August 31, 2018.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="radio"/> Department <input type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		5/10/2017	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		5/9/2017	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
WRITTEN/SUBMITTED BY:		DATE:		