



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: April 19, 2017

DEPARTMENT: City Attorney

DIVISION:

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

TITLE:

Transfer of Funds to HACY, Conversion of Public Housing Units to the Rental Assistance Demonstration Program, and Repeal of Ordinance No. O2016-034

SUMMARY RECOMMENDATION:

Authorize (1) the transfer of City funds to the Housing Authority of the City of Yuma (HACY), a City of Yuma created agency, under terms, conditions and amounts to be set forth in a separate agreement or agreements which must be approved by the City Council, (2) the conversion of City-owned public housing units into the U.S. Department of Housing and Urban Development (HUD) Rental Assistance Demonstration program in accordance with agreements which City Council must approve, and (3) repeal Ordinance No. O2016-034, which previously authorized and approved the execution of a transfer of funds agreement with HACY. (City Attorney) (Richard W. Files)

REPORT:

On November 2, 2016, the City Council adopted Ordinance No. O2016-034 which approved a transfer of funds agreement (the "HACY Agreement") 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 HACY Agreement permitted the transfer of up to \$1,900,000 to HACY, and would allow HACY to convert the City's public housing units into HUD's Rental Assistance Demonstration ("RAD") program free of approximately \$1.6 million in debt. This remaining debt stems from a 2010 Repayment Agreement in which HACY, with HUD's consent, agreed to repay itself money lost through its development subsidiary, Arizona Housing Development Corporation, during the 2008 financial crisis and housing market meltdown.

In addition to the transfer of funds, the HACY Agreement approved by Ordinance No. O2016-034 contains a provision that would have provided the City with a security interest in the funds transferred, and an addendum requiring the signature of a HUD representative. The addendum modifies one of the standard provisions in the preprinted HUD General Depository Agreement (condition 5 of HUD Form 51999 attached as Exhibit B to the HACY Agreement), which would cause HUD to relinquish its right under a substantial default, to freeze funds in the depository account.

Although HUD understands that (1) the proposed transfer for a minimum 90 days will enable HACY to clear the repayment obligation, (2) the transferred funds will be held in a joint account with City of Yuma and HACY, (3) that HACY will execute a promissory note to the City of Yuma in the amount of any funds transfer, and (4) the promissory note will appear as an unsecured debt on RAD conversion documents; HUD will not agree to the City's addendum that modifies a term of HUD's General

Depository Agreement, and will not permit the City to maintain a security interest in the transferred funds. Additionally, some other terms of the previously approved HACY Agreement have changed such as the name of the depository bank and the date of the RAD conversion which HUD refers to as a closing.

This proposed ordinance repeals the approval of the existing HACY Agreement including the documents referenced as Exhibits to the HACY Agreement, and Ordinance O2016-034. The proposed ordinance then reauthorizes a transfer of funds to HACY under terms, conditions and in an amount up to the previously approved \$1,900,000, all of which must be approved by City Council through a separate City Council action or actions. A new transfer of funds agreement and the terms and conditions for the transfer are anticipated to come before City Council by the 1st Council meeting in June.

Because the City owns all of the 235 public housing units, HUD is also requiring the City to execute the RAD conversion documents. This proposed ordinance therefore authorizes the City to enter into the RAD conversion of the 235 City-owned units on the condition that City Council approves the RAD conversion documents by separate City Council action or actions. City staff intends to bring both the RAD conversion documents and the transfer agreement for final City Council consideration at the same City Council meeting.

Approving this ordinance will repeal Ordinance No. O2016-034, authorize the City Administrator to transfer up to \$1,900,000 to HACY only in accordance with the terms to be set forth in a revised agreement or agreement that will be subject to approval by the City Council at a later date. Additionally, approving this ordinance authorizes the City to enter into the RAD conversion subject to City Council approval of the RAD conversion documents.

FISCAL REQUIREMENTS	CITY FUNDS:	\$1,900,000.00	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:	\$1,900,000.00		
	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 checked="" type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		3/27/2017	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		3/27/2017	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Richard W. Files		3/20/2017		
WRITTEN/SUBMITTED BY:		DATE:		