

RESOLUTION NO. R2019-027

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, APPROVING THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE THROUGH AN EQUIPMENT SCHEDULE TO A MASTER LEASE AND SUBLEASE AGREEMENT AND RELATED DOCUMENTS BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF YUMA, ARIZONA

WHEREAS, the City Council of the City of Yuma, Arizona (the “City Council”) approved the incorporation of The Industrial Development Authority of the City of Yuma, Arizona (the “Authority”) by Resolution No. 2301 on April 20, 1983; 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, in accordance with and pursuant to Title 35, Chapter 5, Arizona Revised Statutes (“A.R.S.”), as amended (the “Act”), the Authority 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, the Authority has previously assisted the Corporation and authorized the execution and delivery of a lease, sublease and related documents for 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 (the “Master Agreement”), Equipment Schedule No. 1 to Master Lease and Sublease Agreement, and Equipment Schedule No. 2 to Master Lease and Sublease Agreement, each 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 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 in a total aggregate principal amount not to exceed \$20,000,000 (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, Orrick, Herrington & Sutcliffe LLP, as bond counsel, has advised that the 2019 Lease will be treated as a qualified 501(c)(3) bond as defined in section 145 of the Internal Revenue Code of 1986 (the “Code”) that finances health care facilities; and

WHEREAS, the Corporation will be the initial owner of the 2019 Project, and the 2019 Project is located within the City of Yuma, Arizona; and

WHEREAS, Section 35-721(B) of the Act requires approval of the Equipment Schedule No. 3 for the 2019 Lease by the City Council; and

WHEREAS, Section 147(f) of the Code requires that the City Council approve the execution and delivery of the Equipment Schedule No. 3 to provide for the 2019 Lease after a public hearing held by the Authority following public notice published in advance of said hearing; and

WHEREAS, a public hearing was held by the Authority on July 30, 2019, with respect to the aforementioned financing at the law office of Benesch & Davy, P.C., 350 W. 16th Street, Suite 209, Yuma, Arizona, following public notice published at least 7 days in advance of said hearing; and

WHEREAS, the Authority has heretofore delivered to this City Council the Authority’s resolution, forms or copies, as applicable, of the Equipment Schedule No. 3 and the other documents related to the 2019 Lease documents (listed on Exhibit A hereto), the proceeds delivered from which will assist the Corporation to pay the costs of the 2019 Project, and information regarding the 2019 Project, and the City Council deems it appropriate to approve the execution and delivery of the Equipment Schedule No. 3 to provide for the 2019 Lease by the Authority.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma, Arizona, as follows:

SECTION 1: That the City Council hereby approves the execution and delivery by the Authority of the Equipment Schedule No. 3 to provide for the 2019 Lease, as presented at this meeting and on file with the Authority’s counsel and the City Clerk (which documents may be revised in accordance with the Authority’s Resolution), in accordance with the requirements of the Act and of Section 147(f) of the Code, provided that the principal amount of the 2019 Lease may not to exceed the aggregate principal amount of \$20,000,000.

SECTION 2: That the various, requisite City officers and employees are authorized and directed to take all actions necessary to effectuate the purposes of this Resolution.

SECTION 3: That all resolutions or ordinances, or parts thereof, which contemplate the same subject matter as this Resolution and which are in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

SECTION 4: That 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.

Adopted this ____ day of _____, 2019.

Approved:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

EXHIBIT A

1. Copy of Yuma Regional Medical Center's Application for Bond Issuance to the Authority.
2. Copy of Resolution No. 2019-01 of the Authority adopted on July 16, 2019, authorizing the execution and delivery of the Equipment Schedule No. 3 to provide for the 2019 Lease.
3. Copy of Master Lease and Sublease Agreement among Authority, Banc of America Public Capital Corporation or its designee (the "Lessor"), as Lessor, and the Corporation.
4. Form of Equipment Schedule No. 3 to Master Lease and Sublease Agreement, among the Lessor, the Authority and the Corporation.