

ORDINANCE NO. O2024-038

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, (1) APPROVING A TENDER OFFER WITH RESPECT TO THE PURCHASE OF CERTAIN OBLIGATIONS OF THE CITY; (2) APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF NECESSARY AGREEMENTS, INSTRUMENTS AND DOCUMENTS RELATED TO SUCH TENDER OFFER AND PURCHASE; (3) DELEGATING AUTHORITY TO THE CITY ADMINISTRATOR AND THE FINANCE DIRECTOR OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; (4) APPROVING A TRANSFER OF APPROPRIATIONS WITHIN THE FISCAL YEAR 2025 BUDGET; AND (5) AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE

WHEREAS, pursuant to Ordinance No. O2020-027 adopted on December 16, 2020, the City Council (the “City Council”) of the City of Yuma, Arizona (the “City”), determined to (i) fund all or a portion of the City’s unfunded liabilities with respect to the Arizona Public Safety Personnel Retirement System and one or more contingency reserve funds with respect to pension and related liabilities, and finance other projects of the City approved by the City Council (collectively, the “Project”); and (ii) refinance all or a portion of the payments due pursuant to the Series 2010 City Lease, dated as of June 1, 2010, as amended by the First Amendment to Series 2010 City Lease, dated as of August 1, 2016, to the City of Yuma Municipal Property Corporation, with respect to refinancing the costs of construction of a municipal administration complex and the acquisition of property and street improvements (collectively with the Project, the “Projects”); and

WHEREAS, in connection with the financing and refinancing, as applicable, of the Projects, the City Council authorized the sale and execution and delivery of Pledged Revenue Obligations, Taxable Series 2021 (the “Obligations”) and Pledged Revenue Refunding Obligations, Tax-Exempt Series 2021, evidencing, notwithstanding the multiple series, proportionate interests of the owners thereof in lease payments to be made by the City pursuant to the Lease-Purchase Agreement, dated as of February 1, 2021, between U.S. Bank Trust Company, National Association (successor in interest to U.S. Bank National Association), as lessor, and the City, as lessee; and

WHEREAS, the City Council has now determined to purchase with legally available funds a portion of the outstanding Obligations that may be tendered by the holders thereof for purchase as such Obligations may be identified and set forth in a certificate or other instrument of the City delivered in connection with the purchase of such Obligations; and

WHEREAS, the City will make a tender offer with respect to the Obligations (the “Offer”), the Offer to be on the terms and subject to the conditions set forth in the Invitation to Tender Obligations for Purchase (the “Invitation”); and

WHEREAS, the City Council will receive a proposal from Stifel, Nicolaus & Company, Incorporated, serving in the capacity of and designated as the dealer manager (the “Dealer Manager”), and not acting as a municipal advisor as defined in the Registration of Municipal Advisors Rule of the Securities and Exchange Commission, and has determined that the Dealer Manager should be retained to perform those services in connection with the Offer as are customarily performed by investment banks in connection with tender offers of like nature, such proposal being in the form of a Dealer Manager Agreement, to be dated the date of posting of the Invitation (the “Dealer Manager Agreement”), by and between the City and the Dealer Manager; and

WHEREAS, there have been presented to the City Council at the meetings at which this Ordinance is being introduced and adopted, and there are on file with the City Clerk, the proposed forms of the Invitation and the Dealer Manager Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF YUMA AS FOLLOWS:

SECTION 1: The City Administrator and the Finance Director of the City or the designees of either of them (collectively, the “Authorized Representatives”) are authorized to determine on behalf of the City: (1) the date of dissemination of the Invitation; (2) what, if any of, the Obligations are to be purchased pursuant to the Offer; (3) the amount of legally available funds to be applied to the purchase of the Obligations (not to exceed \$15,000,000); (4) the terms upon which the Obligations are to be purchased; and (5) transfer FY 2025 budget appropriations from contingency accounts “General Fund – Capital Improvements Estimated to be Completed in Future Years” and “Grants Fund – Capital Improvements Estimated to be Completed in Future Years” in the amounts not to exceed \$5,000,000 and \$10,000,000 respectively; and transfer cash from the “General Fund” in the amount not to exceed \$15,000,000; to the “Debt Service Fund”, to record transactions related to the Obligations, as prescribed by the Governmental Accounting Standards Board (GASB).

SECTION 2: The form, terms and provisions of the Dealer Manager Agreement, in substantially the form of such document presented at the meetings of the City Council at which this Ordinance is being introduced and adopted, and is on file with the City Clerk, is approved, with such final provisions, insertions, deletions and changes as determined as provided hereinabove, and shall be approved by the Authorized Representatives, the execution of such document being conclusive evidence of such approval.

SECTION 3: The distribution of the Invitation at the direction of the Authorized Representatives is approved, with such changes or revisions therein as may be approved by the Authorized Representatives.

SECTION 4: The Authorized Representatives are hereby authorized to prepare, execute, and deliver, as appropriate, such letters, notices and/or acceptances as may be necessary in connection with the purchase by the City of the Obligations. The Authorized Representatives are each hereby authorized and directed to execute and deliver one or more tender and information agent agreements with one or more tender and information agents, and any other agreements as may be necessary to effectuate the purchase of the Obligations, in forms acceptable to the Authorized Representatives.

SECTION 5: The Authorized Representatives and other officers of the City, on behalf of the City, are authorized and directed, without further order of the City Council, to do all such acts and things and to execute and deliver all such certificates, proceedings, agreements and other documents as may be necessary or convenient to be executed and delivered on behalf of the City to evidence compliance with, or further the purposes of, all the terms and conditions of this Ordinance and the consummation of the transactions contemplated hereby and as may be necessary to carry out the terms and intent of this Ordinance.

SECTION 6: All actions of the officers and agents of the City which conform to the purposes and intent of this Ordinance and which further the purchase of the Obligations pursuant to the Offer as contemplated by this Ordinance, whether heretofore or hereafter taken, are ratified, confirmed and approved.

SECTION 7: If any section, paragraph, clause or phrase of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or phrase shall not affect any of the remaining provisions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each and every other section, paragraph, clause or provision hereof and authorized the purchase of the Obligations pursuant to the Offer irrespective of the fact that any one or more sections, paragraphs, clauses or provisions may be held to be invalid, illegal or unenforceable. All orders, resolutions and ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, resolution or ordinance or any part thereof.

Adopted this _____ day of _____ 2024.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

CERTIFICATION

I hereby certify that the foregoing Ordinance No. O2024-038 was duly passed and adopted by the City Council of the City of Yuma, Arizona, at a regular meeting held on the 6th day of November 2024, and the vote was ____ ayes and ____ nays.

Lynda L. Bushong
City Clerk