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City of Las Cruces
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8 Ordinance/Resolution# 10-149 Council District: 4

For Meeting of December 7, 2009

(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH RESOURCES FOR CHILDREN & YOUTH INCORPORATED TO ACCEPT ADDITIONAL FUNDS TO COVER CONSTRUCTION COSTS ABOVE THE STATE ALLOCATED AND CITY OF LAS CRUCES HOME FUNDING AMOUNTS. THE RESOLUTION AMENDS THE CITY'S ADOPTED FY 2009/10 BUDGET TO REFLECT THE ACTIONS OF THIS RESOLUTION.

PURPOSE(S) OF ACTION: Approve a Resolution authorizing a Memorandum of Understanding between the City of Las Cruces and Resources for Children and Youth Inc.

Name of Drafter: Jan Lauterbach <i>JL</i>		Department: Community Development <i>RWS</i>		Phone: 528-3134	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>[Signature]</i>	528-3060	Budget Assistant City Manager	<i>[Signature]</i>	541-2300
			City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128		<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Resources for Children and Youth Incorporated (RCYI), as owner, and Families and Youth Incorporated (FYI), as sponsor, have secured State Legislative Appropriations totaling \$1,524,130.00 to purchase, plan and design a Transitional Living Facility for Young Adults in Dona Ana County. The Las Cruces City Council approved, through Resolution #09-154, an Inter-Governmental Agreement between the City of Las Cruces and Dona Ana County to purchase, plan and design the facility using State funds allocated to the County. The Las Cruces City Council also approved, through Resolution #09-185, a HOME Grant Agreement in the amount of \$375,000.00 in PY 2007 in HOME funds towards this project. With the approval of Resolution # 09-235 on April 20, 2009 the Las Cruces City Council approved the Affordable Housing Grant Agreement for the use of State legislative funds including the additional 2009 appropriation for \$250,000.00 for development and construction.

The City of Las Cruces having the capacity and capability to serve as the fiscal agent for State appropriations made to both the County and the City for the construction of the FYI transitional living complex due to the adoption of the Affordable Housing General Oversight Ordinance sent out a request for bids for the construction contract. Through a competitive bidding process, the Greenhouse Inc. was awarded the construction contract for an amount of \$2,157,700.00 without tax.

(Continued on page 2)

The Project Management Section of Facilities and the Neighborhood Services Section of Community Development are recommending that Council approve the Memorandum of Understanding (MOU). Approving and accepting the MOU will provide additional funds from Resources for Children and Youth that will enable the City to move forward with the project in accepting change orders and payment requests from the contractor without delays to the project. The MOU will allow the City to accept from RCYI a capital contribution in the form of a check in the amount of \$261,611.00 and a Letter of Credit in the amount of \$471,046.20 for a total of \$732,657.20 to be used solely for the project.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
Other Operating Grants Fund 2761 Account 27184030-722190-16006	\$732,657.20	\$732,657.20

1. Proposed Resolution
2. Exhibit "A" – Memorandum of Understanding
3. Exhibit "B" – Budget Adjustment
4. Attachment "C" – Resolution 09-154
5. Attachment "D" – Resolution 09-185
6. Attachment "E" – Resolution 09-235

OPTIONS / ALTERNATIVES:

1. Vote YES and approve the Resolution authorizing the City of Las Cruces to enter into a Memorandum of Understanding with Resources for Children & Youth Inc. to accept additional funds to cover construction costs over the amount of State allocated and City of Las Cruces HOME fund amounts.
2. Vote NO and deny the Resolution authorizing the City of Las Cruces to enter into a Memorandum of Understanding with Resources for Children & Youth Inc. This action would have a negative financial impact on the project.
3. Modify the Resolution and vote YES to approve the modified Resolution.
4. Table/Postpone the Resolution and direct staff accordingly.

RESOLUTION NO. 10-149

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH RESOURCES FOR CHILDREN & YOUTH INCORPORATED TO ACCEPT ADDITIONAL FUNDS TO COVER CONSTRUCTION COSTS ABOVE THE STATE ALLOCATED AND CITY OF LAS CRUCES FUNDING AMOUNTS. THE RESOLUTION AMENDS THE CITY'S ADOPTED FY 2009/10 BUDGET TO REFLECT THE ACTIONS OF THIS RESOLUTION.

The City Council is informed that:

WHEREAS, the State legislature appropriated funding totaling \$1,524,130.00 to Dona Ana County and/or the City of Las Cruces to purchase, plan, design, equip, and furnish a Transitional Living Complex for young adults in Dona Ana County; and

WHEREAS, the Las Cruces City Council approved, through Resolution #09-154, an inter-governmental agreement between Dona Ana County and the City of Las Cruces, as fiscal agent, for State legislature appropriated funding to purchase, plan, and design a transitional living facility for young adults in Dona Ana County; and

WHEREAS, the Las Cruces City Council approved, through Resolution #09-185, a HOME Grant Agreement in the amount of \$375,000.00 in Program Year 2007 funds towards the construction of the complex; and

WHEREAS, the Las Cruces City Council approved, through Resolution #09-235, an Affordable Housing Grant Agreement in the amount of \$1,524,130.00 which included \$250,000.00 in 2009 State legislative appropriations for development and construction; and

WHEREAS, Resources for Children and Youth Inc. have been directly awarded funds in the amount of \$261,611.00 through a Continuum of Care and EDI Grant for construction costs attributed to the project; and

WHEREAS, through the competitive bidding process, the construction contract was awarded in the amount of \$2,157,700.00 without tax. Therefore, with the addition of taxes, additional fees for design work and change orders, the project has a funding shortage; and

WHEREAS, continuation of the construction of the complex is contingent upon Council approving the Memorandum of Understanding that Resources for Children and

Youth Incorporated will provide funds for construction costs of the Transitional Living Complex that will exceed State and City of Las Cruces HOME funding allocations.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Memorandum of Understanding between the City of Las Cruces and Resources for Children & Youth Incorporated as shown in Exhibit "A," attached hereto and made part of this resolution, is hereby approved.

(II)

THAT the City FY2010 Budget as shown in Exhibit "B," attached hereto and made part of this Resolution, is hereby amended and approved.

(III)

THAT the City Manager, as the official representative of the City, is hereby authorized to sign the understanding on the City's behalf.

(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this _____ day of _____, 2009.

(SEAL)

ATTEST:

City Clerk

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney

APPROVED:

Mayor

VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF LAS CRUCES
AND
RESOURCES FOR CHILDREN AND YOUTH INC.

This Memorandum of Understanding is entered into on this 16th day of November 2009, between the City of Las Cruces ("City"), a New Mexico municipal corporation, and Resources for Children and Youth, Inc. ("RCYI"), a New Mexico non-profit corporation.

1. RCYI owns the property located at 1089 W. Amador Avenue, Las Cruces, New Mexico, herein after referred to as the "Complex". Families and Youth, Inc. will be the operating agency for the Complex. The Complex under construction on the property (the "Construction Project") is a transitional living complex that will provide housing, counseling, and social services to low income young adults recently released from juvenile justice, foster care, or adolescent mental health treatment programs that would otherwise be indigent and homeless or living in unsafe conditions. Additionally, low-income seniors may also utilize housing at the Complex.

2. The State has appropriated approximately \$1,524,130.00 in state funds to the City for the Construction Project and the City of Las Cruces has allocated federal HOME funds in the amount of \$375,000.00 for Construction Project. When the Construction Project was bid, the apparent low bidder was approximately \$258,750.00 over the available State and City HOME fund appropriations. With the addition of fees for taxes, additional architectural design work, two current change orders which have been requested plus a contingency for anticipated additional change orders the amount of overage is approximately \$732,657.20, which sum is eligible for federal Continuum of

Care and Economic Development Initiative grants payable only to RCYI, on a reimbursement basis.

3. To enable the Construction Project to proceed as designed, RCYI has offered a capital contribution of \$261,611.00 and a Letter of Credit in the amount of \$471,046.20 to the City for a total of \$732,657.20 and the City agrees to accept said contribution from RCYI in the form of a check in the amount of \$261,611.00 from RCYI plus the Letter of Credit in the amount of \$471,046.20 from a financial institution acceptable to the City and to use said contributions solely for the Construction Project.

4. This Memorandum of Understanding takes effect upon receipt by the City of the check in the amount of \$261,611.00 from RCYI and the Letter of Credit in the amount of \$471,046.20. Should the Construction Project be completed with funds remaining, the balance of the Letter of Credit shall be retained by RCYI.

5. The City agrees to subordinate its 1st and 2nd lien positions for the above referenced Federal and State funding to the lender chosen by RCYI to obtain funding for the capital contribution referenced in this Memorandum of Understanding.

CITY OF LAS CRUCES

Terrence R. Moore, City Manager

RESOURCES FOR CHILDREN AND YOUTH
INC.

By: _____

Jose V. Fietze

Its: _____

President

**CITY OF LAS CRUCES
ADOPTED BUDGET FY 2009/2010**

FUND	DIVISION		FUND TYPE	
Other Operating Grants Fund 2761	Finance		Special Revenue	
	FY 2008/09 Prel Actual*	FY 2009/10 Adopted	Adjustment	FY 2009/10 Adjusted
RESOURCES				
Beginning Balance	\$ 14,791	0		0
REVENUES				
554025-23001 Paso del Norte (Walk Doña Ana)	\$ 0	0		0
552014-23009 NMSU (Air show)	13,365	0		0
553001-21003 Bookmobile-County	3,767	0		0
553002-33005 DAC Homeland Security Fire Grant	24,061	66,852		66,852
554002-16006 Resources for Children & Youth, Inc	0	0	732,658	732,658
Total Revenues	\$ 41,193	66,852	732,658	799,510
Total Resources	\$ 55,984	66,852	732,658	799,510
EXPENDITURES				
27123040-23009 Air Show	\$ 13,365	0		0
27205170-23001 Walk Doña Ana	14,791	0		0
27205180-21003 County Bookmobile	3,767	0		0
27167010-33005 DAC Homeland Security Fire Grant	24,061	66,852		66,852
27184030-16006 FYI Transitional Living Facility	0	0	732,658	732,658
Total Expenditures	\$ 55,984	66,852	732,658	799,510
ENDING BALANCE	\$ 0	0	0	0

*Preliminary actual as of 11/16/09.

RESOLUTION NO. 09-154

A RESOLUTION APPROVING THE INTER-GOVERNMENTAL AGREEMENT BETWEEN DONA ANA COUNTY AND THE CITY OF LAS CRUCES FOR STATE LEGISLATURE APPROPRIATED FUNDING TO PURCHASE, PLAN, AND DESIGN A TRANSITIONAL LIVING FACILITY FOR YOUNG ADULTS IN DONA ANA COUNTY. THIS RESOLUTION ALSO APPROVES A BUDGET ADJUSTMENT TO THE CITY'S ADOPTED FY 2009 BUDGET TO REFLECT THIS AGREEMENT ACCEPTANCE.

The City Council is informed that:

WHEREAS, the state legislature appropriated funding totaling \$1,274,130.00 to Dona Ana County to purchase, plan, and design a Transitional Living Facility for young adults in Dona Ana County; and

WHEREAS, the New Mexico Mortgage Finance Authority has indicated its approval in principal that, apart from equipping and furnishing the facility, the construction project falls within the scope of the Affordable Housing Act and there is no constitutional, statutory or regulatory prohibition to the County's directing the appropriation to the City of Las Cruces; and

WHEREAS, the City of Las Cruces has the required ordinance and affordable housing plan in place, and as the process unfolds, the New Mexico Mortgage Finance Authority will provide review and oversight functions as necessary; and

WHEREAS, the development of a new Transitional Living Facility, which will allow the program to serve additional clients, will be monitored by the City of Las Cruces; and

WHEREAS, it is expedient and cost effective for Dona Ana County to partner with the City of Las Cruces to coordinate these expenditures.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Inter-governmental agreement between Dona Ana County and the City of Las Cruces as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the Budget Adjustment to the City's FY2009 adopted Budget, as shown in Exhibit "B," attached hereto and made part of this Resolution, is hereby approved.

(III)

THAT the City Manager, as the official representative of the City, is hereby authorized to sign the Agreement on the City's behalf.

(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this 15th day of December, 2008.

(SEAL)

APPROVED:



Mayor

ATTEST:



City Clerk

Moved by: Archuleta

Seconded by: Silva

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

RESOLUTION NO. 09-185

A RESOLUTION APPROVING A HOME GRANT AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND RESOURCES FOR CHILDREN & YOUTH INCORPORATED AND FAMILIES AND YOUTH INCORPORATED FOR THE DEVELOPMENT AND CONSTRUCTION OF EL CRUCERO, A TRANSITIONAL LIVING COMPLEX.

The City Council is informed that:

WHEREAS, the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 created the HOME Investment Partnerships Program (HOME) for the purpose of providing decent affordable housing to lower-income households; and

WHEREAS, the City of Las Cruces, as a recipient of HOME funding, desires to provide funds in accordance with the goals of the City's 2006-2010 Consolidated Plan which outlines affordable housing and community development; and

WHEREAS, the 2007 Acton Plan, approved May 7, 2007 by Resolution No. 07-340, allocated \$375,000.00 of Program Year 2007 HOME funds for the construction of the Transitional Living Complex; and

WHEREAS, in order to comply with the regulatory requirements of the HOME Investment Partnerships Program (HOME), the City must execute an agreement with Resources for Children and Youth Incorporated and Families and Youth Incorporated.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Grant Agreement between the City of Las Cruces and Resources for Children and Youth Incorporated and Families and Youth Incorporated as shown in Exhibit "A," attached hereto and made part of this resolution, is hereby approved.

(II)

THAT the City Manager, as the official representative of the City, is hereby authorized to sign the Agreement on the City's behalf.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this 17th day of February, 2009.

(SEAL)

APPROVED:



Mayor

ATTEST:



City Clerk

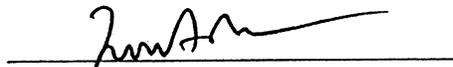
VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Connor _____

Seconded by: Silva _____

APPROVED AS TO FORM:



City Attorney

RESOLUTION NO. 09-235

A RESOLUTION APPROVING AN AFFORDABLE HOUSING GRANT AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND RESOURCES FOR CHILDREN & YOUTH INCORPORATED AND FAMILIES & YOUTH INCORPORATED FOR THE USE OF STATE LEGISLATIVE FUNDS FOR DEVELOPMENT AND CONSTRUCTION OF EL CRUCERO, A TRANSITIONAL LIVING COMPLEX.

The City Council is informed that:

WHEREAS, the state legislature appropriated funding totaling \$1,524,130.00 to Dona Ana County to purchase, plan, design, equip, and furnish a Transitional Living Facility for young adults in Dona Ana County; and

WHEREAS, the Las Cruces City Council approved through Resolution #09-154 an inter-governmental agreement between Dona Ana County and the City of Las Cruces for state legislature appropriated funding to purchase, plan, and design a transitional living facility for young adults in Dona Ana County; and

WHEREAS, in order to comply with the State of New Mexico Affordable Housing Act requirements and the City of Las Cruces Affordable Housing General Oversight Ordinance to secure and expend funding towards the project, an Affordable Housing Grant Agreement must be executed.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Affordable Housing Grant Agreement between the City of Las Cruces and Resources for Children & Youth Incorporated and Families & Youth Incorporated as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the City Manager, as the official representative of the City, is hereby authorized to sign the Agreement on the City's behalf.

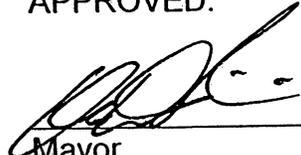
(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this 20th day of April, 2009.

(SEAL)

APPROVED:



Mayor

ATTEST:



City Clerk

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Connor

Seconded by: Silva

APPROVED AS TO FORM:



City Attorney