



City of Grand Island

Tuesday, August 14, 2018

Council Session

Item I-3

**#2018-197 - Consideration of Approving an Interlocal Agreement
with the CRA**

Staff Contact: Marlan Ferguson

Council Agenda Memo

From: Jerry Janulewicz, City Attorney

Meeting: August 14, 2018

Subject: Interlocal Agreement with CRA

Presenter(s): Marlan Ferguson, City Administrator
Jerry Janulewicz, City Attorney

Background

Nebraska State Statutes permit cities to impose or increase city sales tax at a rate greater than 1 ½ percent. The tax generated by the rate that exceeds 1 ½ percent must be used for public infrastructure projects and must terminate no later than 10 years from the effective date of the increase unless the revenue generated by the increased rate is pledged for the repayment of the bonds, in which case the increased rate may continue until the bonds are paid. The proposal to increase the tax rate above 1 ½ percent requires adoption of a resolution passed by a vote of at least 70 percent of all the members of the council, and must be approved by majority vote of the electorate at a primary or general election.

In addition to the requirements stated above, as a condition of imposing sales tax at the increased rate, Neb.Rev.Stat. § 77-27,142 requires a city be a party to an interlocal agreement with a political subdivision within the city or the county creating a separate legal or administrative entity relating to a public infrastructure project. Such interlocal agreement must contain provisions, including benchmarks, relating to the long-term development of unified governance of public infrastructure projects with respect to the parties. The separate legal or administrative entity created cannot be one that was in existence for one calendar year preceding the submission of the question of such tax or increase at a primary or general election.

Concurrent with a resolution to submit to the electorate a proposal to increase the city sales tax rate, City administration is recommending approval of an interlocal agreement with the Grand Island Community Redevelopment Authority. The Interlocal agreement will be presented to the CRA for its consideration and approval. The Interlocal agreement, if approved, will be effective upon, and contingent upon, the City's enactment of an ordinance increasing the sales tax rate above 1 ½ percent.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand.
The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve and adopt the resolution.

Sample Motion

Move to approve Resolution #2018-197.

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into this 8 day of August, 2018, by and between THE CITY OF GRAND ISLAND, Hall County, Nebraska, a municipal corporation (the "City"), and THE CITY OF GRAND ISLAND COMMUNITY REDEVELOPMENT AUTHORITY (the "CRA"). The City and the CRA are individually referred to as "Party" and collectively as "the Parties."

WHEREAS, the City owns and is charged with constructing, operating, and maintaining various elements of public infrastructure projects within the City; and

WHEREAS, the City has identified in its Economic Development Plan public infrastructure and public works needs critical to realizing the City's community and economic development strategy, including but not limited to streets, water, sewer, gas, electrical, storm drainage, railroad extension and spurs, telecommunications, cable, fiber optic, satellite service, and airport expansion and upgrades; and

WHEREAS, the City and CRA jointly approved a General Redevelopment Plan for the City that identifies similar public infrastructure and public works needs critical to the success of the goals of the General Redevelopment Plan for the City, including but not limited to storm drainage; water and sewer mains; utility mains; street construction, resurfacing, and paving projects; parks and public spaces; and sidewalks; and

WHEREAS, the CRA is charged with approving funds for such public infrastructure projects as part of its statutory responsibilities in carrying out the General Redevelopment Plan; and

WHEREAS, the Parties find that there is considerable overlap in the goals of the City's Economic Development Plan and the General Redevelopment Plan, and that better coordination and long-term development of unified governance of public infrastructure projects between the City and CRA in implementing the public infrastructure goals of the General Redevelopment Plan and the Economic Development Plan would be beneficial to achieving the goals of the City and the CRA in providing for the public infrastructure needs of the City; and

WHEREAS, in 2016 the Parties approved an Interlocal Agreement (the "2016 Agreement") which was expressly dependent and contingent upon City's enactment of an ordinance imposing a Local Option Sales Tax of the City that exceeds one and one-half percent (1 ½%), and, therefore, said 2016 Agreement failed to take effect or commence and is null and void due to the failure of the stated contingency; and

WHEREAS, the Parties wish to enter into this Interlocal Agreement to accomplish the above-stated coordination; and

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WHEREAS, this Agreement is authorized by the Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 *et seq.*

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

1. **Coordination of Public Infrastructure Efforts.** The Parties acknowledge that the City is authorized by law to provide the public infrastructure contemplated by this Agreement and in pursuance of the goals of the City's Economic Development Plan, and that the CRA is authorized by law to provide funding for public infrastructure projects contemplated by this Agreement in pursuance of the goals of the City's General Redevelopment Plan. The Parties agree that they will coordinate their respective efforts in implementing the public infrastructure goals of the City's General Redevelopment Plan and its Economic Development Plan through steps including, but not limited to:
 - a. creating a separate administrative entity relating to public infrastructure projects that will be tasked with reviewing the efforts of both the City and CRA to implement the public infrastructure goals of the Parties and any public infrastructure projects undertaken by the Parties or a Party;
 - b. tasking such separate administrative entity with establishing a plan, including benchmarks, for long-term development of unified governance of public infrastructure projects between the City and CRA;
 - c. tasking such separate administrative entity with reporting to both the CRA and City Council as determined necessary by the Parties regarding the coordination of public infrastructure efforts between the Parties;
 - d. tasking such separate administrative entity with suggesting changes to the Economic Development Plan and/or the General Redevelopment Plan to better effectuate the public infrastructure goals of such plans;
 - e. joint meetings of the CRA and City Council as determined necessary by the Parties regarding the coordination of public infrastructure efforts between the Parties; and
 - f. other action as deemed necessary by the Parties for the long-term development of unified governance of public infrastructure projects

between the City and CRA.

2. **Public Infrastructure Projects.** The public infrastructure projects that may be subject to coordination between the Parties pursuant to this Agreement include, but shall not be limited to, public highways and bridges and municipal roads, streets, bridges, and sidewalks; solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in Neb. Rev. Stat. § 18-2103; mass transit and other transportation systems, including parking facilities; and equipment necessary for the provision of municipal services.
3. **Duration.** This Agreement shall be in force and effect, and shall be contingent upon, approval by the City's electorate at the November 2018 election and City's enactment of an ordinance imposing a Local Option Sales Tax of the City that exceeds one and one-half percent (1 ½%), and shall continue thereafter for such time as the Local Option Sales Tax of the City exceeds one and one-half percent (1½%), or until both Parties agree to terminate this Agreement. The value of any property jointly held by the Parties pursuant to this Agreement, if any, shall be divided equally between them upon termination of this Agreement.
4. **Separate Administrative Entity.** There is hereby created under this Agreement the Public Infrastructure Coordination Committee (the "Committee"). The Committee shall be comprised of the chairperson of the CRA or his or her designee, the Mayor of the City of Grand Island or his or her designee, and at least one other members of the City Council and at least one other member of the CRA as the Parties shall determine by mutual agreement, if any. The Committee shall be a separate administrative entity and a joint board, and not a separate legal or joint entity, for purposes of the Interlocal Cooperation Act and the Local Option Revenue Act. The powers delegated to the Committee shall be:
 - a. review the efforts of both the City and CRA to implement the public infrastructure goals of the Parties and any public infrastructure projects undertaken by the Parties or a Party;
 - b. establish a plan, including benchmarks, for long-term development of unified governance of public infrastructure projects between the City

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and CRA, and report to the City and CRA as the Parties request on the progress of meeting such benchmarks;

- c. report to both the CRA and City Council as determined necessary by the Parties regarding the coordination of public infrastructure efforts between the Parties;
- d. suggest changes to the Economic Development Plan and/or the General Redevelopment Plan to better effectuate the public infrastructure goals of such plans; and
- e. such other powers deemed by the Parties to be necessary and proper to be delegated to the Committee.

The Committee shall not have the powers to contract, sue or be sued, hire staff or employees, or create rules or regulations.

- 5. **Financing of the Cooperative Undertaking.** Financing of the cooperative undertaking under this Agreement shall include all sources of financing permitted by the Interlocal Cooperation Act and the Local Option Revenue Act. As public infrastructure projects are undertaken by either Party under the coordination of this Agreement, a budget for such project shall be prepared and reported to the Committee and the Parties.
- 6. **Manner of Acquiring, Holding, and Disposing of Real and Personal Property.** The Committee may acquire, hold, and dispose of real and personal property used in the cooperative undertaking under this Agreement only as directed by the Parties.
- 7. **Invalidity/Severability.** If any portion of this Agreement is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- 8. **Authority to Bind.** Each of the signatories executing this Agreement acknowledges and represents that he or she has been authorized to execute this Agreement on behalf of the Party for whom he or she is signing, and has the legal authority to bind and commit such Party to the agreements set forth herein.
- 9. **Applicable Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Nebraska.
- 10. **Recitals.** The recitals contained hereinabove are incorporated herein and made a part of this agreement.

11. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations and agreements, including the 2016 Agreement, between the Parties and/or their representatives concerning the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

THE CITY OF GRAND ISLAND, NEBRASKA:

BY: _____
Jeremy L. Jensen, Mayor

ATTEST:

RaNae Edwards, City Clerk

THE CITY OF GRAND ISLAND COMMUNITY
REDEVELOPMENT AUTHORITY:

BY: Tom Gourd
_____, Chair

ATTEST:

Chad Nabity
Chad Nabity, Secretary

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RESOLUTION 2018-197

WHEREAS, the City of Grand Island (the “City”) owns and is charged with constructing, operating, and maintaining various elements of public infrastructure projects within the City;

WHEREAS, the City has identified in its Economic Development Plan public infrastructure and public works needs critical to realizing the City’s community and economic development strategy, including but not limited to streets, water, sewer, gas, electrical, storm drainage, railroad extension and spurs, telecommunications, cable, fiber optic, satellite service, and airport expansion and upgrades;

WHEREAS, the City and the City of Grand Island Community Redevelopment Authority (the “CRA”) jointly approved a General Redevelopment Plan for the City that identifies similar public infrastructure and public works needs critical to the success of the goals of the General Redevelopment Plan for the City; including, but not limited to, storm drainage; water and sewer mains; utility mains; street construction, resurfacing, and paving projects; parks and public spaces; and sidewalks;

WHEREAS, the CRA is charged with approving funds for such public infrastructure projects as part of its statutory responsibilities in carrying out the General Redevelopment Plan;

WHEREAS, the City finds that there is considerable overlap in the goals of the City’s Economic Development Plan and the General Redevelopment Plan, and that better coordination and long-term development of unified governance of public infrastructure projects between the City and CRA in implementing the public infrastructure goals of the General Redevelopment Plan and the Economic Development Plan would be beneficial to achieving the goals of the City and the CRA in providing for the public infrastructure needs of the City;

WHEREAS, the City wishes to enter into an Interlocal Agreement with the CRA to accomplish such coordination;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Grand Island, Nebraska, that the following actions are hereby approved and adopted:

SECTION 1. The City, through this Resolution, authorizes the Mayor of the City to cause the City to enter into an Interlocal Agreement pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 *et seq.*, to coordinate the efforts of the City and CRA in implementing the public infrastructure goals of the City’s General Redevelopment Plan and its Economic Development Plan, as outlined by the Interlocal Agreement. The public infrastructure projects that may be subject to coordination between the City and CRA pursuant to such Interlocal Agreement include, but shall not be limited to, public highways and bridges and municipal roads, streets, bridges, and sidewalks; solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their

Approved as to Form	▣ _____
August 10, 2018	▣ City Attorney

appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in Neb. Rev. Stat. § 18-2103; mass transit and other transportation systems, including parking facilities; and equipment necessary for the provision of municipal services.

SECTION 2. All resolutions and portions thereof that are in conflict with this Resolution are hereby repealed.

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Adopted by the City Council of the City of Grand Island, Nebraska, August 14, 2018.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk