



# City of Grand Island

Tuesday, May 11, 2021

Council Session

## Item I-1

### **#2021-112 - Consideration of Approving Industrial Development Revenue Bonds – Tabitha Grand Island Project**

*This item relates to the aforementioned Public Hearing item E-3.*

Staff Contact: Jerry Janulewicz

RESOLUTION 2021-112

CITY OF GRAND ISLAND, IN THE STATE OF NEBRASKA

**A RESOLUTION AUTHORIZING THE ISSUANCE OF REVENUE BONDS (TABITHA GRAND ISLAND PROJECT), SERIES 2021, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$13,950,000, IN ONE OR MORE SERIES, FOR THE PURPOSE OF MAKING A LOAN TO TABITHA GRAND ISLAND, INC., A NEBRASKA NONPROFIT CORPORATION, TO FINANCE OR REIMBURSE A PORTION OF THE COSTS OF CONSTRUCTING AND EQUIPPING A NEW SENIOR LIVING CAMPUS IN GRAND ISLAND, NEBRASKA; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE BONDS; AND RELATED MATTERS.**

**WHEREAS**, the City of Grand Island, Nebraska (the **“Issuer”**) is a city and political subdivision of the State of Nebraska (the **“State”**);

**WHEREAS**, the Issuer is authorized by Sections 13-1101 to 13-1110, inclusive, Reissue Revised Statutes of Nebraska, as amended (the **“Act”**) to issue revenue bonds for the purpose of loaning the proceeds of such bonds to finance any land, building or equipment or other improvement, and all real and personal properties deemed necessary in connection therewith, which shall be suitable for use as a nonprofit enterprise or the refinancing of outstanding debt of an enterprise incurred to finance such land, building, equipment, improvement or other properties;

**WHEREAS**, Tabitha Grand Island, Inc., a nonprofit corporation duly organized and validly existing under the laws of the State (the **“Borrower”**), has requested that the Issuer issue its Revenue Bonds (Tabitha Grand Island Project), in one or more series, in an aggregate principal amount not to exceed \$13,950,000, (the **“Bonds”**), and loan the proceeds thereof to the Borrower for the purpose of financing or reimbursing a portion of the costs of constructing and equipping a new senior living campus (expected to consist of 157 units providing a 200,000 square foot, full-continuum of senior housing and services) and associated site improvements in the City of Grand Island, Nebraska. (the **“Project”**);

**WHEREAS**, the Issuer has agreed to (a) issue the Bonds pursuant to a Loan Agreement (the **“Loan Agreement”**) among the Issuer, Pinnacle Bank, as lender, (the **“Lender”**) and the Borrower, (b) loan the proceeds thereof to the Borrower pursuant to the Loan Agreement, and (c) deliver the Bonds to the Lender;

**WHEREAS**, the following documents will be prepared in connection with the issuance, sale and delivery of the Bonds (collectively, the **“Financing Documents”**):

- (a) Loan Agreement; and
- (b) Tax Compliance Agreement with respect to each series of Bonds, as applicable (the **“Tax Agreement”**), among the Issuer and the Borrower, concerning compliance with the provisions of the Internal Revenue Code of 1986, as amended (the **“Code”**), and the applicable regulations thereunder.

Approved as to Form	□
May 7, 2021	□ City Attorney

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA AS FOLLOWS:**

## **ARTICLE I**

### **LEGAL AUTHORIZATION; FINDINGS; LIMITED OBLIGATIONS**

**Section 1.01. Legal Authorization.** The Issuer is a city and political subdivision of the State and is authorized under the Act to issue and sell the Bonds for the purposes, in the manner and upon the terms and conditions set forth in the Act, in this Resolution, and in the Financing Documents.

**Section 1.02. Findings.** The Issuer has heretofore found and determined, and does hereby find and determine, as follows:

(a) Based entirely in reliance upon representations made to it by the Borrower in the Financing Documents, which representations the Borrower shall be deemed to have affirmed and ratified upon its execution of the Financing Documents, the Issuer does hereby find and determine the following:

(1) pursuant to Section 13-1105 of the Act, (i) the amount necessary to pay the principal of and the interest on the Bonds shall be as set forth in the Loan Agreement and (ii) no reserve fund is advisable to be established in connection with the financing and maintenance of the Project including taxes, except that a reserve fund may be established for liquidity support purposes by an affiliate of the Borrower.

(2) the Borrower expects to operate the Project as an integral part of its overall operations for the foreseeable future; and

(3) the Borrower is a private nonprofit corporation and is authorized by law to operate its facilities in the State.

(b) The Bonds, when issued, will be a special, limited revenue obligation of the Issuer payable solely from the loan repayments and certain other amounts under a liquidity support agreement from an affiliate of Borrower, and shall not be a general liability of the Issuer or a charge against its general credit.

(c) The Bonds will not be a debt of the State, or any city, village, county or political subdivision of the State, and none of the State or any city, village, county or political subdivision of the State shall be liable on the Bonds. The Bonds shall not constitute a debt within the meaning of any constitutional or statutory debt limitation of the State. The Issuer's taxing power is not pledged for repayment of the Bonds.

## **ARTICLE II**

### **AUTHORIZATION OF BONDS APPROVAL OF FINANCING DOCUMENTS**

**Section 2.01. Authorization of Bonds.**

(a) For the purpose of making a loan to the Borrower to pay the costs to finance the Project and issuance costs related to the Bonds, there are hereby authorized to be issued revenue bonds of the Issuer in an aggregate principal amount not to exceed Thirteen Million Nine Hundred Fifty Thousand Dollars (\$13,950,000), in one or more series, to be designated “City of Grand Island, Nebraska, Revenue Bonds (Tabitha Grand Island Project).” The Bonds shall (1) be issued in fully registered form in the denominations, (2) bear such dates and interest rates, (3) mature and be payable as to principal or redemption price and interest at such place and in such form, (4) carry such registration privileges, (5) be subject to early prepayment and purchase prior to maturity, (6) be executed, (7) be in such form, (8) be issued in one or more series, (9) carry such designation, and (10) contain such other terms, covenants and conditions as shall be set forth in the Loan Agreement.

(b) The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk, who are authorized to execute, seal, attest and deliver the Bonds on behalf of the Issuer.

**Section 2.02. Approval of Financing Documents.** The preparation of the proposed Financing Documents is, in all respects, hereby approved, authorized, ratified, and confirmed, and the Mayor, City Administrator, or Finance Director of the Issuer (each, an “**Authorized Officer**”) are each separately and individually hereby authorized and directed to finalize, execute, acknowledge, and deliver the Financing Documents, including counterparts thereof, in the name and on behalf of the Issuer. The Financing Documents shall be approved by an Authorized Officer of the Issuer executing the same, such execution thereof to constitute conclusive evidence of the Issuer’s approval. From and after the execution and delivery of the Financing Documents by the Issuer, the officers, agents and employees of the Issuer are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents, certificates, and instruments as may be necessary to carry out and comply with the provisions of the Financing Documents, including but not limited to any documentation related to the conversion of the tax status of interest on Bonds from taxable to tax-exempt.

**Section 2.03. Authority To Execute and Deliver Additional Documents; Further Authorizations.** Each officer of the Issuer severally is hereby authorized to execute and deliver for and on behalf of the Issuer any and all additional certificates, documents and other papers and to perform all other acts as the party signing may deem necessary or appropriate to implement and carry out the purposes and intent of this Resolution, including the preamble hereto. Each Authorized Officer severally is hereby authorized to determine, in conjunction with authorized representatives of the Borrower: (a) the date of the Financing Documents and the Bonds, (b) the aggregate principal amount of Bonds to be issued, not to exceed the amount set forth in **Section 2.01** hereof, and the principal maturities thereof, (c) the interest rates to be carried by each principal maturity of the Bonds or the manner of determining such interest rates, and (d) the dates upon which the Bonds will be subject to redemption and purchase prior to maturity, and the amount of any redemption premium, if any.

**Section 2.04. Public Hearing Approval.** The notice of public hearing related to the issuance of the Bonds was duly published and a public hearing pursuant to such notice has been conducted in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended, and the City hereby approves the issuance of the Bonds in the original aggregate face amount of not to exceed \$13,950,000, in one or more series, to finance the Project and issuance costs related to the Bonds, all in accordance with the terms of such notice, which is attached hereto as **Exhibit A** and made a part hereof by reference.

**Section 2.05. Taxable Status of Bonds.** The Bonds shall initially be issued as taxable bonds and may be converted to tax-exempt, bank-qualified bonds upon further action by resolution of the City Council at a later date. It is understood that the approval of terms provided herein related to tax-exempt, bank-qualified bonds are subject to the Bonds being so converted upon further action by resolution of the

City Council at a later date. Nothing in this Resolution shall be construed to commit the City to convert the Bonds to tax-exempt bonds or as a designation of the City's "bank-qualification" for any year.

### ARTICLE III

#### MISCELLANEOUS

**Section 3.01. Limitation of Rights.** With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution or the Bonds is intended or shall be construed to give to any person, other than the Issuer and the Lender, any legal or equitable right, remedy or claim under or with respect to this Resolution or any covenants, conditions and provisions herein contained; this Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Lender as herein provided.

**Section 3.02. Severability.** If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

**Section 3.03. Immunity of Officers.** No recourse for the payment of any part of the principal or redemption price of or interest on the Bonds for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, sale and delivery of the Bonds shall be had against any official, officer, member or agent of the Issuer or the State, all such liability to be expressly released and waived as a condition of and as a part of the consideration for the issuance, sale and delivery of the Bonds.

**Section 3.04. Prior Resolutions.** To the extent that the provisions of this Resolution conflict with provisions of prior resolutions, or parts thereof, the provisions of this Resolution shall control, to the extent of such conflicts.

**Section 3.05. Captions.** The captions or headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**Section 3.06. Validity of Bonds.** Each Bond shall contain a recital that such Bond is issued pursuant to and under the Act, and such recital shall be conclusive evidence of its validity and of the regularity of its issuance.

**Section 3.07. Electronic Transactions.** The transactions described herein may be conducted and this Resolution and related documents may be sent, received and stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 3.08. Effective Date.** This Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor and City Council of the Issuer.

RESOLUTION 2021-112

**DATED:** May 11, 2021

**CITY OF GRAND ISLAND, NEBRASKA**

By: \_\_\_\_\_  
Roger G. Steele, Mayor

ATTEST:

By: \_\_\_\_\_  
Jill Granere, Deputy City Clerk

**EXHIBIT A**  
**TEFRA HEARING NOTICE**

NOTICE OF MEETING AND PUBLIC HEARING  
OF THE MAYOR AND CITY COUNCIL  
OF THE CITY OF GRAND ISLAND, NEBRASKA

Notice is hereby given that the Mayor and City Council of the City of Grand Island, Nebraska (the “**City**”), will conduct a meeting on Tuesday, May 11, 2021, at 7:00 p.m. The meeting will be held in the Council Chambers of City Hall, 100 East First Street in Grand Island, Nebraska. An agenda for the meeting, kept continually current, is available for public inspection at the City Clerk’s office during normal business hours, and is also posted on the City’s website at [grand-island.com](http://grand-island.com).

At 7:00 p.m., the Mayor and City Council will conduct a public hearing and consider a resolution regarding the issuance by the City of its Revenue Bonds (Tabitha Grand Island Project), in one or more series pursuant to the plan of financing for the below-described Project, in the maximum aggregate face amount of not to exceed \$13,950,000 (the “**Bonds**”), for the benefit of Tabitha Grand Island, Inc., a Nebraska nonprofit corporation (the “**Borrower**”). The Bonds are expected to be issued as Qualified 501(c)(3) Bonds as defined in Section 145 of the Internal Revenue Code of 1986, as amended.

The proceeds of the Bonds will be loaned by the City pursuant to Sections 13-1101 to 13-1110, inclusive, Reissue Revised Statutes of Nebraska, as amended (the “**Act**”) in furtherance of the purposes of the Act, to the Borrower for the purposes of (a) financing or reimbursing a portion of the costs of constructing and equipping a new senior living campus (expected to consist of 157 units providing a 200,000 square foot, full-continuum of senior housing and services) and associated site improvements (the “**Project**”) and (b) financing issuance costs related to the Bonds. The Project is or will be owned and operated by the Borrower, and is or will be located at the west end of the Prairie Commons in Grand Island, Nebraska/proximate to the southwest quadrant of the intersection of Husker Highway and Prairieview Street in Grand Island, Nebraska.

THE BONDS SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION, SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE CITY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS, AND NO TAX FUNDS WILL EVER BE USED TO PAY ANY PART THEREOF, SUCH BONDS AND THE INTEREST THEREON TO BE PAYABLE SOLELY FROM THE REVENUES DERIVED BY THE CITY FROM THE LOAN AGREEMENT WITH THE BORROWER.

All interested persons are invited to present comments at the public hearing or to submit written comments to bond counsel to the City, Gilmore & Bell, P.C., 450 Regency Parkway, Suite 320, Omaha, Nebraska 68114, concerning the issuance of the Bonds and the Project.

RaNae Edwards, City Clerk