



# City of Grand Island

Tuesday, May 27, 2014

Council Session

## Item F-2

### **#9489 - Consideration of Approving Bond Anticipation Notes for Street Improvement Districts**

Staff Contact: Jaye Monter, Finance Director

# Council Agenda Memo

**From:** Jaye Monter, Finance Director

**Meeting:** May 27, 2014

**Subject:** Approving Bond Anticipation Notes Webb Road Street Improvement District No. 1260 and Westgate Road Paving District No. 1261

**Item #'s:** F-2

**Presenter(s):** Jaye Monter, Finance Director  
Bruce Lefler-Ameritas Investment Corp.

## Background

Street Improvement District No. 1260 was created by the City Council on February 12, 2013. On April 9, 2013, resolution 2013-107 approved the continuation of such street improvement district. On March 11, 2014, resolution 2014-53 awarded the construction contract to Diamond Engineering Company for \$1,361,451.80.

The District consists of South Webb Road extending north from Stolley Park Road to the Union Pacific Railroad tracks. The project consists of widening the roadway from 24' to 41' for a 3-lane section with improved drainage and elimination of the ditch section. This project was estimated at \$1.7 million total project costs (including engineering, construction, construction testing and services, etc.) and would be assessed to adjacent property owners.

Street Improvement District No. 1261 was created by the City Council on April 23, 2013. On May 28, 2013, resolution 2013-156 approved the continuation of such street improvement district. On March 11, 2014, resolution 2014-54 awarded the construction contract to Diamond Engineering Company for \$510,539.96.

The District will consist of Westgate Road extending east from North Road to the existing hard surface portion of Westgate Road. This area was platted in November 1987. The project would consist of paving, as well as connecting the initial phase of the Moores Creek Drainway to this area and eliminating the ditch section. The total project was estimated at \$580,000.00 (including construction, engineering, construction testing and services, etc.) and would be assessed to adjacent property owners. All property owners in this proposed district signed the district creation petition form.

Creation Ordinance #		Construction	Contract Engineering	City Staff Engineering	Total
9420	Webb Rd SID #1260	\$ 1,361,451.80	\$ 127,700.00	\$ 147,108.75	\$ 1,636,260.55
9427	Westgate Rd SID #1261	\$ 510,539.96	\$ 58,574.05	\$ -	\$ 569,114.01
					\$ 2,205,374.56

## **Discussion**

During the 2013-2014 Budget as noted on page 92 of the Budget Summary III book along with continued discussion of bond financing options at the March 11, 2014 Council meeting for these two street improvement districts, Bond Anticipation Notes (BANs) will be issued in the amount of \$2,230,000 allowing for the funding of the project expenses at short term interest rates, for a two year term. In today's environment, the interest rates on the BANs should be less than 0.50%.

State statutes require that the permanent financing for Street Improvement and Paving projects cannot be put in place until the Certificate of Substantial Completion be obtained from the engineer. After the project is complete and any assessments have been levied, the permanent financing will be put into place to redeem the outstanding BANs. The permanent financing will be sized to include paid special assessments which will reduce the final bond size.

## **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 the issuance of Bond Anticipation Notes in the amount of \$2,230,000.

## **Sample Motion**

Move to approve the issuance of Bond Anticipation Notes in the amount of \$2,230,000.

**ORDINANCE NO. 9489**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2014, OF THE CITY OF GRAND ISLAND, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION TWO HUNDRED THIRTY THOUSAND DOLLARS (\$2,230,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NO. 1260 AND STREET IMPROVEMENT DISTRICT NO. 1261 PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND ORDERING THIS ORDINANCE PUBLISHED IN PAMPHLET FORM.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

Section 1. The Mayor and City Council hereby find and determine:

(a) That by Ordinance Nos. 9420 and 9421 of the City heretofore adopted, Street Improvement District No. 1260 and Street Improvement District No. 1261 have heretofore been created;

(b) That for certain street and related improvements in Street Improvement District Nos. 1260 and 1261, the engineers of the City have prepared estimates for the cost of construction of the improvements in the aforesaid Districts, have taken bids for the project and contracts have been let in the approximate amount of \$1,871,990, design and engineering costs of approximately \$333,382 will be incurred, plus costs of issuance and underwriting and a portion of interest to accrue on said notes during construction estimated at a net amount of \$24,628, for total estimated costs of \$2,230,000; that the construction of the aforesaid improvements is expected to be completed by November 1, 2015;

(c) That it is necessary for the City to have funds available to meet its payment obligations under the terms of contracts for the cost of the improvements to be constructed relative to the aforesaid improvement districts and to meet its obligations to provide interim financing therefor, it is necessary and advisable that the City now issue its notes in the principal amount of not to exceed \$2,230,000 pending permanent financing pursuant to Sections 16-623 and 16-626 R.R.S. Neb. 2012, and other applicable Sections; that the City has authority under Section 10-137, R.R.S. Neb. 2012 to issue notes for the purpose of providing interim financing for the construction of said improvements, including a portion of the interest

to accrue on such notes and the costs of issuance thereof, all as set out above; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2014, in the amount of not to exceed \$2,230,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 2. For the purpose of providing interim financing for the costs set out in Section 1 pending the issuance of permanent general obligation various purpose bonds by the City of Grand Island, there shall be and there are hereby ordered issued bond anticipation notes of the City of Grand Island, Nebraska, to be known as "Bond Anticipation Notes, Series 2014" of the aggregate principal amount of not to exceed Two Million Two Hundred Thirty Thousand Dollars (\$2,230,000) (herein referred to as the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof; said Notes shall bear as date of original issue their date of delivery, each of said Notes shall mature on such date, shall bear interest at the rate or rates per annum and be issued in such principal amount as shall be determined in a written designation (the "Designation") signed by the Mayor or City Treasurer/Finance Director of the City (the "Authorized Officers") on behalf of the City Council of the City and which may be agreed to by Ameritas Investment Corp. (the "Underwriter"), which Designation may also determine or modify pricing terms as set forth in Section 6 below, all within the following limitations:

- (a) the aggregate principal amount of the Notes shall not exceed \$2,230,000;*
- (b) the aggregate amount of original issue premium and original issue discount (if any) may result in an aggregate net original issue discount (if any) not in excess of one percent (1.00%) of the stated principal amount of the Notes;*
- (c) the maturity of the Notes may not be later than July 1, 2016;*
- (d) the true interest cost of the Notes shall not exceed 1.50%;*

*The Authorized Officers (or any one of them) are hereby authorized to make such determinations on behalf of the City Council and to evidence the same by execution and delivery of the Designation and such determinations, when made and agreed to by the Underwriter, shall constitute the action of the City Council without further action of the City Council.*

Interest on the Notes shall be payable semiannually on May 15 and November 15 of each year, commencing November 15, 2014 (or such other dates as may be determined in the Designation, each of said dates an "Interest Payment Date") and the Notes shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the close of business on the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 4 hereof. The Notes shall be numbered from 1 upwards in the order of their issuance. No Note shall be issued originally or upon transfer or partial redemption having more than one principal maturity.

Also provided, however, the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after May 15, 2015 (or such other redemption date as may be determined in the Designation), upon not less than thirty days written notice, at par and accrued interest to the date fixed for redemption. Such notice of call for redemption shall be sufficient if it has been sent to a registered holder of said note or notes by first class mail addressed to the registered address of said registered holder. If less than all of the notes are called and redeemed, such notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding note is called for redemption, in such case upon the surrender of such note called for payment, there shall be issued to the registered owner of said note, without charge therefor, a registered note or notes for the unpaid principal balance in any of the authorized denominations authorized by this ordinance.

The principal of said notes and any interest due on said notes upon maturity or earlier call for redemption shall be payable at the corporate office of Cornerstone Bank, in York, Nebraska, as Paying Agent and Registrar, upon presentation and surrender of the note or notes when due or when called for payment prior to maturity.

Section 3. The Cornerstone Bank, in York, Nebraska, is hereby designated as Paying Agent and Registrar for the Bond Anticipation Notes herein ordered issued and is hereby authorized to make payments of interest and principal from funds available for such purposes as provided herein as the same fall due. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes. The names and registered addresses of the registered owner or owners of the Notes

shall at all times be recorded in such books. Any Note may be transferred pursuant to its provisions by said Paying Agent and Registrar by surrender of such Note for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will deliver (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new note or notes of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the notes by this ordinance, one note may be transferred for several such notes of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such notes may be transferred for one or several such notes, respectively of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a note, the surrendered note shall be cancelled and destroyed. All notes issued upon transfer of the notes so surrendered shall be valid obligations of the City evidencing the same obligations as the notes surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the notes upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any note called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. Said Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

Section 5. Said notes shall be substantially in the following form:

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF HALL

BOND ANTICIPATION NOTE  
OF THE CITY OF GRAND ISLAND, NEBRASKA  
SERIES 2014

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	_____, 20__	_____, 2014	____

Registered Owner: Cede & Co.  
13-2555119

Principal Amount: \_\_\_\_\_ THOUSAND DOLLARS (\$\_\_\_\_\_)

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Grand Island, in the County of Hall, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable semiannually on May 15 and November 15 of each year, commencing November 15, 2014 (each of said dates an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this note and any interest due upon maturity or earlier call for redemption are payable at the corporate office of Cornerstone Bank, as Paying Agent and Registrar, in York, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity.

This note is redeemable at the option of the City prior to maturity at any time on or after May 15, 2015 at par and accrued interest to date fixed for redemption. Notice of call of any note for redemption prior to maturity shall be sufficient if given in writing and mailed by first class mail, postage prepaid, to the registered owner at the address shown on the note register not less than thirty days prior to the date fixed for redemption.

This note is one of an issue of notes numbered from 1 upwards in order of issuance, of the total principal amount of \_\_\_\_\_ (\$\_\_\_\_\_ ) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of Grand Island for the purpose of providing interim financing to pay a portion of the cost of improvements in Street Improvement District No. 1260 and Street Improvement District No. 1261, including the cost of issuance of said notes and a portion of the interest to accrue on said notes, pending the issuance of permanent general obligation bonds. The issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City in strict compliance with Sections 16-623, 16-626 and 10-137, R.R.S. Neb. 2012, and all other applicable laws.

The City agrees that the principal and interest of this note shall be payable from the proceeds of the issuance and sale of its general obligation bonds, the issuance and sale of its bond anticipation notes, or from other monies of the City lawfully available for such purposes.



The City reserves the right to issue additional bond anticipation notes for the purpose of paying the balance of the costs of the projects financed in part by this issue of notes or of other improvement projects of the City, for the purpose of refunding the notes of this issue at or prior to maturity and for the purpose of paying for additional improvements for the City. The ordinance under which these notes are issued constitutes an irrevocable contract between the City and the holders of all of said notes and said contract cannot be changed or altered without the written consent of the holders of seventy-five percent (75%) in principal amount of the notes of this series then outstanding.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS NOTE MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY NOTE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

This note shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this note did exist, did happen and were done and performed in regular and due form and time as provided by law.

IN WITNESS WHEREOF the Mayor and Council of the City of Grand Island, Nebraska, have caused this note to be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be impressed or imprinted hereon, all as of the date of original issue specified above.

CITY OF GRAND ISLAND, NEBRASKA

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk  
(SEAL)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes of the issue designated therein and issued under the provisions of the ordinance authorizing said issue.

CORNERSTONE BANK  
YORK, NEBRASKA  
Paying Agent and Registrar

\_\_\_\_\_  
Authorized Signature

(Form of Assignment)

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within mentioned note and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer the same on the books of registration in the office of the within-in mentioned Paying Agent and Registrar with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Registered Owner(s)

Witness: \_\_\_\_\_

Note: The signature of this assignment must correspond with the name as written on the face of the within-mentioned note in every particular, without alteration, enlargement or any change whatsoever.

Section 6. Each of the Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal (which may be a facsimile seal). The Notes shall be issued initially as "book-entry-only" notes using the services of The Depository Trust Company ("DTC"), with one typewritten note certificate per maturity being issued to DTC. In such connection, said officers are authorized to execute and deliver a Letter of Representations in the form required by DTC (including any blanket letter previously executed and delivered by the City), for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Notes. Upon the issuance of the Notes as "book-entry-only" notes, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Notes as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Note from a Bond Participant while the Notes are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Notes,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Notes, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Notes.

The Paying Agent and Registrar shall make payments with respect to the Notes only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Notes to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Note, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Notes requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Notes or (ii) to make available Notes registered in whatever name or names the Beneficial Owners transferring or exchanging such Notes shall designate.

(c) If the City determines that it is desirable that certificates representing the Notes be delivered to the Bond Participants and/or Beneficial Owners of the Notes and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of note certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange note certificates representing the Notes as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Note is registered in the name of the Depository or any nominee thereof, all payments with respect to such Note and all notices with respect to such Note shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Notes may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Notes may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section.

(f) In the event of any partial redemption of a Note unless and until such partially redeemed Note has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Note as is then outstanding and all of the Notes issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed note certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Notes upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of such City. In case any officer whose signature or facsimile thereof shall appear on any Note shall cease to be such officer before the delivery of such Note (including any note certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the

City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Notes to be registered and authenticated. Upon execution, registration and authentication of the Notes, the City Treasurer is authorized to deliver them to Ameritas Investment Corp., as the initial purchaser thereof, upon receipt of 99.10% of the principal amount of the Notes (or such other amount as may be determined in the Designation) plus accrued interest thereon to date of payment for the Notes. Said initial purchaser shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Mayor is hereby authorized to execute the Note Purchase Agreement with respect to the Notes.

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its various purpose bonds or other bonds. The City further covenants and agrees to issue and sell its various purpose bonds or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the bond anticipation notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources.

Section 8. The City hereby reserves the right to issue additional bond anticipation notes for the purpose of paying the balance of the cost of the projects of the City set out in Section 1 hereof, for the purpose of refunding the Notes herein ordered issued at or prior to maturity or for the purpose of paying for additional improvements for the City.

Section 9. The City Clerk shall make and certify a complete transcript of the proceedings had and done by said City precedent to the issuance of said Notes which shall be delivered to the purchaser of the Notes. After being executed by the Mayor and Clerk said Notes shall be delivered to the City Treasurer who shall be responsible therefor under her official bond. The City Treasurer is authorized and directed to deliver said Notes to the purchaser upon receipt of payment of the purchase price in accordance with the contract of the City with said purchaser.

Section 10. The City hereby covenants to the purchasers and holders of the Notes that it will make no use of the proceeds of said Notes issue, including money held in any sinking fund attributable to said Notes which would cause the Notes to be arbitrage bonds within the meaning of the Internal Revenue

Code of 1986, as amended, and further covenants and agrees to take all actions necessary under current federal law to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Notes. The City hereby authorizes the Mayor or City Treasurer to designate the Notes as its “qualified tax-exempt obligations” under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and provide such covenants and warranties as determined necessary or appropriate in connection therewith.

Section 11. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 12. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of said conflict hereby repealed.

Section 13. The City hereby (a) authorizes and directs that a Mayor, Treasurer or Clerk execute and deliver, on the date of issue of the Notes, a continuing disclosure undertaking in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “Rule”) in such form as determined necessary and appropriate by such Mayor, Treasurer or Clerk (the “Continuing Disclosure Undertaking”) and (b) covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this resolution, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an event of default hereunder; however, any Participating Underwriter (as such term is defined in the Continuing Disclosure Undertaking) or any Beneficial Owner or any Registered Owner of a Note (as such terms are defined in the Continuing Disclosure Undertaking) may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this section, and under the Continuing Disclosure Undertaking.

Section 14. The Preliminary Official Statement with respect to the Notes is hereby approved. The City Council hereby authorizes the Mayor and City Clerk (or either of them) to approve a Preliminary Official Statement with respect to the Notes and the information therein contained, and the Mayor and City Clerk (or either of them) are authorized to approve and deliver a final Official Statement

for and on behalf of the City, and said final Official Statement shall be delivered in accordance with the Rule.

Section 15. In order to promote compliance with certain federal tax and securities laws relating to the Notes herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Post-Issuance Compliance Policy and Procedures") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 16. This Ordinance shall be published in pamphlet form as provided by law. This Ordinance shall take effect immediately upon its publication in pamphlet form.

PASSED AND APPROVED this 27th day of May, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

[SEAL]

**Policy and Procedures**

**Federal Tax Law and Disclosure Requirements for  
Tax-exempt Bonds and/or Build America Bonds**

**ISSUER NAME:** The City of Grand Island, in the State of Nebraska

**COMPLIANCE OFFICER (BY TITLE):** City Treasurer/Finance Director

**POLICY**

It is the policy of the Issuer identified above (the "Issuer") to comply with all Federal tax requirements and securities law continuing disclosure obligations for its obligations issued as tax-exempt bonds (or as direct pay build America bonds, as applicable) to ensure, as applicable (a) that interest on its tax-exempt bonds remains exempt from Federal income tax, (b) that the direct payments associated with its bonds issued as "build America bonds" are received by the Issuer in a timely manner and (c) compliance with any continuing disclosure obligations of the Issuer with respect to its outstanding bonds.

**PROCEDURES**

Compliance Officer. Review of compliance with Federal tax requirements and securities law continuing disclosure obligations as generally outlined below shall be conducted by the Compliance Officer identified above (the "Compliance Officer"). To the extent more than one person has been delegated specific responsibilities, the Compliance Officer shall be responsible for ensuring coordination of all compliance review efforts.

Training. The Compliance Officer shall evaluate and review educational resources regarding post-issuance compliance with Federal tax and securities laws, including periodic review of resources published for issuers of tax-exempt obligations by the Internal Revenue Service (either on its website at <http://www.irs.gov/taxexemptbond>, or elsewhere) and the Municipal Securities Rulemaking Board (either on its Electronic Municipal Market Access website ["EMMA"] at <http://www.emma.msrb.org>, or elsewhere).

Compliance Review. A compliance review shall be conducted at least annually by or at the direction of the Compliance Officer. The review shall occur at the time the Issuer's annual audit takes place, unless the Compliance Officer otherwise specifically determines a different time period or frequency of review would be more appropriate.

Scope of Review.

*Document Review.* At the compliance review, the following documents (the "Bond Documents") shall be reviewed for general compliance with covenants and agreements and applicable regulations with respect to each outstanding bond issue:

- (a) the resolution(s) and/or ordinance(s), as applicable, adopted by the governing body of the Issuer authorizing the issuance of its outstanding bonds, together with any documents setting the final rates and terms of such bonds (the "Authorizing Proceedings"),
- (b) the tax documentation associated with each bond issue, which may include some or all of the following (the "Tax Documents"):
  - (i) covenants, certifications and expectations regarding Federal tax requirements which are described in the Authorizing Proceedings;
  - (ii) Form 8038 series filed with the Internal Revenue Service;
  - (iii) tax certificates, tax compliance agreements, tax regulatory agreement or similar documents;
  - (iv) covenants, agreements, instructions or memoranda with respect to rebate or private use;
  - (v) any reports from rebate analysts received as a result of prior compliance review or evaluation efforts; and
  - (vi) any and all other agreements, certificates and documents contained in the transcript associated with the Authorizing Proceedings relating to federal tax matters.
- (c) the Issuer's continuing disclosure obligations, if any, contained in the Authorizing Proceedings or in a separate agreement (the "Continuing Disclosure Obligations"), and



- (d) any communications or other materials received by the Issuer or its counsel, from bond counsel, the underwriter or placement agent or its counsel, the IRS, or any other material correspondence relating to the tax-exempt status of the Issuer's bonds or relating to the Issuer's Continuing Disclosure Obligations.

*Use and Timely Expenditure of Bond Proceeds.* Expenditure of bond proceeds shall be reviewed by the Compliance Officer to ensure (a) such proceeds are spent for the purpose stated in the Authorizing Proceedings and as described in the Tax Documents and (b) that the proceeds, together with investment earnings on such proceeds, are spent within the timeframes described in the Tax Documents, and (c) that any mandatory redemptions from excess bond proceeds are timely made if required under the Authorizing Proceedings and Tax Documents.

*Arbitrage Yield Restrictions and Rebate Matters.* The Tax Documents shall be reviewed by the Compliance Officer to ensure compliance with any applicable yield restriction requirements under Section 148(a) of the Internal Revenue Code (the "Code") and timely calculation and payment of any rebate and the filing of any associated returns pursuant to Section 148(f) of the Code. A qualified rebate analyst shall be engaged as appropriate or as may be required under the Tax Documents.

*Use of Bond Financed Property.* Expectations and covenants contained in the Bond Documents regarding private use shall be reviewed by the Compliance Officer to ensure compliance. Bond-financed properties shall be clearly identified (by mapping or other reasonable means). Prior to execution, the Compliance Officer (and bond counsel, if deemed appropriate by the Compliance Officer) shall review (a) all proposed leases, contracts related to operation or management of bond-financed property, sponsored research agreements, take-or-pay contracts or other agreements or arrangements or proposed uses which have the potential to give any entity any special legal entitlement to the bond-financed property, (b) all proposed agreements which would result in disposal of any bond-financed property, and (c) all proposed uses of bond-financed property which were not anticipated at the time the bonds were issued. Such actions could be prohibited by the Authorizing Proceedings, the Tax Documents or Federal tax law.

*Continuing Disclosure.* Compliance with the Continuing Disclosure Obligations with respect to each bond issue shall be evaluated (a) to ensure timely compliance with any annual disclosure requirement, and (b) to ensure that any material events have been properly disclosed as required by the Continuing Disclosure Obligation.

*Record Keeping.* If not otherwise specified in the Bond Documents, all records related to each bond issue shall be kept for the life of the indebtedness associated with such bond issue (including all tax-exempt refundings) plus six (6) years.

*Incorporation of Tax Documents.* The requirements, agreements and procedures set forth in the Tax Documents, now or hereafter in existence, are hereby incorporated into these procedures by this reference and are adopted as procedures of the Issuer with respect to the series of bonds to which such Tax Documents relate.

*Consultation Regarding Questions or Concerns.* Any questions or concerns which arise as a result of any review by the Compliance Officer shall be raised by the Compliance Officer with the Issuer's counsel or with bond counsel to determine whether non-compliance exists and what measures should be taken with respect to any non-compliance.

*VCAP and Remedial Actions.* The Issuer is aware of (a) the Voluntary Closing Agreement Program (known as "VCAP") operated by the Internal Revenue Service which allows issuers under certain circumstances to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal tax requirements and (b) the remedial actions available to issuers of certain bonds under Section 1.141-12 of the Income Tax Regulations for private use of bond financed property which was not expected at the time the bonds were issued.