



City of Grand Island

Tuesday, July 27, 2004

Council Session

Item F2

#8925 - Consideration of Issuance by the Grand Island Area Solid Waste Agency - Solid Waste Disposal Facilities Revenue Refunding Bonds, Series 2004 and Management and Service Agreements

This item relates to the aforementioned Solid Waste Agency Items S-3 & S-4.

Staff Contact: David Springer

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ORDINANCE NO. 8925

AN ORDINANCE APPROVING THE ISSUANCE OF SOLID WASTE DISPOSAL FACILITIES REVENUE REFUNDING BONDS, SERIES 2004, BY THE GRAND ISLAND AREA SOLID WASTE AGENCY; AUTHORIZING AND APPROVING A SUPPLEMENT TO SERVICE AGREEMENT AND SUPPLEMENT TO MANAGEMENT AGREEMENT; MAKING CERTAIN COVENANTS AND ALLOCATIONS; RATIFYING AND CONFIRMING PRIOR ACTIONS WITH RESPECT TO SAID BONDS AND PROVIDING FOR THE PUBLICATION OF SAID ORDINANCE

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

Section 1. The Mayor and Council hereby find and determine that the Grand Island Area Solid Waste Agency (the "Agency") has been formed by agreement of the City of Grand Island and The County of Hall and proposes to issue \$2,485,000 of its Solid Waste Disposal Facilities Revenue Refunding Bonds, Series 2004 (the "2004 Bonds"), pursuant to a Resolution adopted July 27, 2004, by the governing body of the Agency (the "Resolution") and the Mayor and Council have previously approved and the City has executed and delivered a Service Agreement, dated August 14, 1992, by and between the City and the Agency pursuant to Section 13-2024, R.S.Supp. 1992, as supplemented by that Supplement to Service Agreement, dated July 15, 1998, by and between such parties (together, the "City Service Agreement"), and a Management Agreement, dated August 14, 1992, by and between the City and the Agency, as supplemented by that Supplement to Management Agreement by and between such parties (together, the "Management Agreement") and that in connection with the issuance of the 2004 Bonds it is necessary and advisable to further supplement the Service Agreement and the Management Agreement by appropriate additional supplements thereto (the "Supplements"). The terms and conditions of the Supplements are hereby approved in all respects and execution and delivery of said Supplements, in substantially the form presented, for and on behalf of the City by the Mayor and attestation by the City Clerk are hereby authorized.

Section 2. The Mayor and Council hereby approve on behalf of the City the terms and provisions of the Resolution and the 2004 Bonds and agree and acknowledge that the 2004 Bonds shall constitute the "Facility Bonds" as referred to in the City Service Agreement and the "Facilities Revenue Bonds" as referred to in the Management Agreement, each as respectively supplemented by the Supplements. The Mayor and Council hereby state that it is the intention of the City that interest on the 2004 Bonds issued by the Agency shall be excludable from gross income under the federal income tax by virtue of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and Revenue Ruling 57-187 of the Internal Revenue Service. The City hereby covenants with the Agency for the benefit of the purchasers and registered owners of the 2004 Bonds that it will make no use of the proceeds of said issue, including the monies held in any sinking fund for the payment of debt service with respect to the 2004 Bonds, which would cause the 2004 Bonds to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Code and further covenants to comply, as manager for the Agency, with said Sections 103 and 148 of the Code and related sections and the applicable regulations thereunder throughout the term of said issue. The City further covenants and agrees with the Agency for the benefit of the purchasers and registered owners of the 2004 Bonds that, as agent and manager for the Agency, it will take no actions which would have the effect of causing interest on the 2004 Bonds to be no longer excludable from gross income for purposes of income taxation under Section 103 of the Code. The 2004 Bonds as issued on behalf of the City are hereby designated by the City as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of

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the Code and the City in connection with the issuance of the 2004 Bonds and the City Service Agreement and the Management Agreement, as supplemented by the Supplements, hereby covenants and warrants that it does not anticipate issuance directly by it or on its behalf of bonds or other interest bearing obligations in an amount exceeding \$10,000,000 in calendar 2004, excluding for such purposes the principal amount of any "private activity bonds" as described in Section 141 of the Code (other than "qualified 501(c)(3) bonds" as described in Section 145 of the Code) and any bonds or other obligations issued by the City and the Agency or on behalf of the City or the Agency for current refunding purposes in such calendar year to the extent that such principal amount does not exceed the amount of the bonds or other obligations refunded, provided that the amount of the 2004 Bonds hereby designated shall be reduced as and to the extent that a portion of the 2004 Bonds may be determined to be "deemed designated" in accordance with the provisions of Section 265(b)(3)(D) of the Code and the Resolution. The officers of the Agency (or any one of them) are hereby authorized to make allocations of the 2004 Bonds (as to principal maturities) and of the proceeds of the 2004 Bonds and debt service funds of the Agency as may be deemed appropriate under the federal tax laws and regulations, specifically including any allocations relating to the determination of a portion of the 2004 Bonds as "deemed designated". Any such allocations made and determinations set forth in a certificate by an officer of the Agency shall be and constitute authorized determinations made on behalf of the City with the same force and effect as if set forth in this Ordinance and/or the Resolution. The Grand Island Area Solid Waste Agency is hereby declared to be a subordinate entity issuing on behalf of the City within the meaning of Section 148(f)(4)(D)(iv) of the Code.

Section 3. The terms and conditions of the Management Agreement, the City Service Agreement and the Supplements are hereby confirmed and approved in all respects and execution and delivery of the Supplements for and on behalf of the City by its officers (or any one or more of them) are hereby ratified and confirmed in all respects.

PASSED AND APPROVED this 27th day of July, 2004.

(Seal)

Mayor

ATTEST:

City Clerk