



City of Grand Island

Tuesday, September 27, 2005

Council Session

Item F1

**#9008 - Consideration of Issuing Bonds for the Library Building
Expansion**

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney

Meeting: September 27, 2005

Subject: Consideration of Issuing Bonds for the Library Building Expansion

Item #'s: F-1

Presenter(s): Douglas R. Walker, City Attorney

Background

Part of the process of obtaining the necessary financing to proceed with the Grand Island City Library project is the issuance of bonds by the Grand Island Facilities Corporation on behalf of the City of Grand Island so that the addition to the Edith Abbott Memorial Library can be constructed. It is necessary for the Council to pass an ordinance approving the issuance of these bonds for the library building addition. As part of the process of approving the bonds, it is also necessary to approve an addendum to the Lease Purchase Agreement to reflect the final terms for payments on the bonds. The Council also needs to approve the addendum to the design/build contract, the Trust Indenture Security and the Bond Purchase Agreement as part of the process for financing the library project.

Discussion

The Grand Island Facilities Corporation is in the process of obtaining financing for the construction of the addition to the Edith Abbott Memorial Library. The Facilities Corporation has entered into a contract for construction of a 25,000 square foot addition to be located on the west side of the existing city library building. To finance this addition to the city library it will be necessary for the Grand Island Facilities Corporation to issue \$7,000,000 worth of bonds and the bond payments are to be made from the payments made by the city pursuant to the lease purchase agreement. As part of the financing project it is also necessary for the City Council to approve the issuance of the bonds by the Grand Island Facilities Corporation to complete the process of obtaining funds for the construction of the library. The ordinance will also give Council approval to several other documents that are necessary to the financing process.

Alternatives

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

1. Pass the ordinance approving the issuance of bonds for the construction of the addition of the city library.
2. Do not pass the ordinance approving the issuance of bonds for the construction of the addition of the city library.
3. Postpone the issue to future date.
4. Take no action on the issue.

Recommendation

City Administration recommends that the Council pass the ordinance approving the issuance of bonds for the construction of the addition to the Grand Island City Library building.

Sample Motion

Motion to suspend the rules for three separate readings and to pass the ordinance approving the issuance of bonds for the construction of the addition to the library building.

Ordinance No. 9008

AN ORDINANCE PROVIDING FOR THE PURCHASE AND LEASING OF AN ADDITION TO THE CITY'S EXISTING LIBRARY FACILITIES; AUTHORIZING EXECUTION AND DELIVERY OF AN ADDENDUM TO LEASE PURCHASE AGREEMENT WITH GRAND ISLAND FACILITIES CORPORATION, AMENDING AND CONFIRMING THE TERMS OF A LEASE PURCHASE AGREEMENT PREVIOUSLY ENTERED INTO, RELATING TO THE CONSTRUCTION AND ACQUISITION OF SAID LIBRARY ADDITION FOR USE BY THE CITY; APPROVING THE EXECUTION OF DOCUMENTS WITH RESPECT TO SAID ADDENDUM; PROVIDING FOR THE ACCEPTANCE OF TITLE; APPROVING AN APPRAISAL; APPROVING THE TERMS OF A TRUST INDENTURE AND SECURITY AGREEMENT; APPROVING AN ADDENDUM TO CONSTRUCTION CONTRACT; MAKING CERTAIN DETERMINATIONS WITH RESPECT TO BONDS TO BE ISSUED UNDER SUCH INDENTURE; APPROVING THE TERMS OF A BOND PURCHASE AGREEMENT; AND PROVIDING FOR THE PUBLISHING OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA (the "City") as follows:

Section 1. The Mayor and Council hereby find and determine: that the City has previously approved the execution and delivery of that Lease Purchase Agreement dated as of July 12, 2005 (the "Original Lease Purchase Agreement") by and between the City and Grand Island Facilities Corporation (the "Corporation"), a Nebraska nonprofit corporation; that it is advisable and necessary to supplement and amend the terms of the Original Lease Purchase Agreement in order to provide for the final agreed upon terms relating to the acquisition of an addition to the City's existing library facilities to serve the City and its inhabitants (the "Project"); that the Corporation has been formed under the Nebraska nonprofit corporation laws exclusively for purposes permitted by Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); that the Original Lease Purchase Agreement provides for the construction and acquisition of the Project pursuant to the provisions of Section 19-2421, R.R.S. Neb. 1997; that it is necessary and advisable for the terms of the Original Lease Purchase Agreement to be modified to set forth the payments required to be made by the City for the purchase of the Project and relating to the financing to be obtained for the Project by the Corporation and to recognize the construction contractor as a third party beneficiary; that the documents necessary for such purposes have been prepared and said documents should be approved and their execution authorized.

Section 2. The City of Grand Island shall enter into the Addendum to Lease Purchase Agreement to be dated as of October 1, 2005, with the Corporation, modifying the terms of the Original Lease Purchase Agreement (the "Addendum" and together with the Original Lease Purchase Agreement, the "Agreement") and whereby the Corporation will construct and acquire the Project in accordance with specifications approved by the City and with a set schedule of payments relating to the acquisition of the Project and that the Addendum in the form presented at this meeting is hereby approved.

Section 3. The Mayor and City Clerk of the City be and they are hereby authorized and directed to execute and deliver on behalf of the City the Addendum, including any necessary counterparts, in substantially the form and content as presented to this meeting, but with such changes or modifications therein as to them seem necessary, desirable or appropriate on behalf of the City; and said Mayor and City Clerk are further authorized and directed to execute and deliver any other documents or certificates and to do all other things necessary or appropriate in connection with the Agreement.

Section 4. The Mayor and Council hereby approve the formation of the Corporation, including the Articles of Incorporation and Bylaws thereof and the five directors thereof; and further approve the Trust Indenture and Security Agreement, dated as of October 1, 2005, (the "Indenture") from the

Corporation in favor of Wells Fargo Bank, National Association, under which Building Bonds (Library Project), Series 2005, in the aggregate principal amount of \$7,000,000 (the "Building Bonds") are to be issued, and the City hereby approves the issuance of the Building Bonds, in such principal amount and bearing interest as set forth in the Indenture and the sale of said bonds to Ameritas Investment Corp. (the "Underwriter") in accordance with the terms of a Bond Purchase Agreement dated September 27, 2005 (the "Bond Purchase Agreement"), at the price of \$_____ (which price takes into consideration original issue discount in the amount of \$_____, Underwriter's discount in the amount of \$_____ and bond insurance premium to be paid by the Underwriter in the amount of \$_____), is hereby approved. The Mayor is hereby further authorized to sign the approval form on the Bond Purchase Agreement on behalf of the City and to approve at the time of closing of the purchase of the Building Bonds the final form of the Indenture.

Section 5. In connection with the execution and delivery of the Addendum and the issuance by the Corporation of the Building Bonds, the following determinations and approvals are hereby made by the Mayor and Council:

(a) The Complete Appraisal Report of Edith Abbott Memorial Library Addition Located at 221 ± W. 2nd St. Grand Island, Nebraska (When Completely Built) dated July 25, 2005 made by William C. Fischer, MAI #4722 is hereby approved in accordance with Section 13-403, R.R.S. Neb. 1997.

(b) The City hereby declares, as provided in the Agreement, that it will take title to the Project (including additions) when the Building Bonds are discharged.

(c) The terms of the Addendum to Design/Build Contract Between Owner and Design Builder (the "Contract Addendum") recognizing the contractor as a third party beneficiary of the Agreement are hereby approved and authorized. The Mayor and City Clerk of the City be and they are hereby authorized and directed to execute and deliver the Contract Addendum, including any necessary counterparts, in substantially the form and content as presented to this meeting, but with such changes or modifications therein as to them seem necessary, desirable or appropriate on behalf of the City.

(d) The designation in the Indenture of the City's Library Director and the City Finance Director to act as Project Manager (and alternate) (as defined in the Indenture) is hereby approved.

Section 6. The Mayor and Council hereby state that it is the intention of the City that interest on the Building Bonds issued by the Corporation shall be excludable from gross income under the federal income tax by virtue of Section 103 of the Code and Revenue Ruling 63-20 and Revenue Procedure 82-26 of the Internal Revenue Service and the Mayor and Council hereby authorize the Mayor, the City Clerk and the City Treasurer (Finance Director) (or any one of more of them) to take all actions necessary or appropriate to carry out said intention and for obtaining such interest exclusion. The City hereby covenants with the Corporation for the benefit of the purchasers and holders of the Building Bonds that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payments set forth in the Addendum or principal and interest on the Building Bonds, which would cause the Building Bonds to be arbitrage bonds within the meaning of Section 103 and 148 and other related sections of the Code and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue, including all requirements with respect to reporting and payment of rebates, if applicable. The Building Bonds, as issued on behalf of the City are hereby designated by the City as "qualified tax-exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Code and the City in connection with entering into the Agreement hereby covenants and warrants that it does not anticipate issuance directly by it or on its behalf of tax-exempt bonds or other tax-exempt interest bearing obligations in an amount exceeding \$10,000,000 in calendar 2005 (taking into consideration the exception for current refunding issues).

Section 7. The Mayor and Council hereby approve the Preliminary Official Statement dated September 12, 2005 with respect to the Building Bonds and hereby authorize the Mayor to approve the final Official Statement for the Building Bonds with appropriate changes to reflect the final terms for the Building Bonds as sold pursuant to the Bond Purchase Agreement.

Section 8. This Ordinance shall be in force and take effect from and after its publication as provided by law.

Passed and approved this 27th day of September, 2005.

Mayor

Attest:

City Clerk