



City of Grand Island

Tuesday, February 26, 2008

Council Session

Item I5

#2008-78 - Consideration of Resolution of Intent to Issue Tax-Exempt Industrial Development Revenue Bonds for Microgy Grand Island, LLC

Staff Contact: David Springer

Council Agenda Memo

From: Dave Springer, Finance Director

Meeting: February 26, 2008

Subject: Approving Intent to Issue Tax-Exempt Industrial Development Revenue Bonds for Microgy Grand Island, LLC

Item #'s: I-5

Presenter(s): Dave Springer, Finance Director

Background

As authorized by Nebraska statutes, the City of Grand Island is empowered to issue its industrial development revenue bonds for the purpose of defraying the cost of acquisition, construction and equipping of a project. Microgy Grand Island, LLC, has requested the City to issue and sell tax-exempt bonds not to exceed \$7,000,000 pursuant to this statute for the purpose of defraying all or a portion of the cost of acquisition, construction and equipping of certain solid waste disposal and biogas manufacturing facilities to be operated by Microgy at the Swift & Company beef processing facility in Grand Island.

Discussion

The growth in production and processing over the last four years at the Swift & Company plant has put a strain on the City's Waste Water Treatment Plant (WWTP) and taken capacity originally intended for the City's growth. The proposed Microgy facility, together with an additional holding pond, currently under construction at Swift, are intended to help reduce the flow and the solids content to our WWTP and provide an environmental friendly generation of biogas to be used in their facility. The Microgy facility meets the criteria for the issuance of these Industrial Development Revenue Bonds. These would be limited obligations of the City payable solely from payments made by the Company under a lease agreement with the City and will not constitute a liability to the City, nor would they be payable from any tax source.

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 Resolution of Intent to issue bonds.

Sample Motion

Move to approve the Resolution of Intent to issue Tax-Exempt Industrial Development Revenue Bonds to finance the Microgy Grand Island, LLC facility.

RESOLUTION 2008-78

WHEREAS, the City of Grand Island, Nebraska, (the “City”), a political subdivision of the State of Nebraska, is authorized and empowered by the provisions of Sections 13-1101 to 13-1110, Reissue Revised Statutes of Nebraska, 1997, as amended (the “Act”), to finance a project, as that term is defined in the Act, and to issue its industrial development revenue bonds (the “Bonds”) for the purpose of defraying the cost of acquisition, construction and equipping of a project; and

WHEREAS, Microgy, Inc., a Colorado corporation (the “Company”), has requested the City to issue and sell one or more series of its tax-exempt Bonds pursuant to provisions of the Act for purpose of defraying all or a portion of the cost of acquisition, construction and equipping of certain industrial solid waste disposal and biogas manufacturing facilities at the Swift & Company beef processing facility located at 555 South Stuhr Road, Grand Island, Nebraska, 68801-8533, which facilities are industrial and manufacturing facilities constituting a “project” as that term is defined in the Act (the “Project”); and

WHEREAS, the Bonds, if and when issued, will be limited obligations of the City payable solely from payments to be made by the Company under a lease agreement with the City and the Bonds and the interest thereon will not constitute or give rise to a pecuniary liability of or a charge against the general credit or taxing powers of the City and will not be payable from any tax sources; and

WHEREAS, the City wishes to declare its intention to authorize the issuance in one or more series pursuant to a plan of financing of its tax-exempt Bonds for the purpose of defraying all or a portion of the cost of acquisition, construction and equipping of the Project, when so requested by the Company, upon such terms and conditions as may then be agreed upon by the City, the Company and the underwriter or placement agent of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City does hereby declare its intention to authorize the issuance and sale of the Bonds in one or more series, the interest on which Bonds will be excluded from gross income for federal income tax purposes pursuant to Section 142(a)(6) of the Internal Revenue Code of 1986, as amended, under and in accordance with the Act, in such an amount necessary to defray all or a portion of the cost (including the reimbursement of Project costs previously incurred by the Company) of acquisition, construction and equipping of the Project, presently estimated not to exceed \$6,000,000.00, and upon such terms and conditions as may be mutually agreed upon by the City, the Company and the underwriter or placement agent, the issuance and sale of each series of such tax-exempt Bonds to be authorized by a subsequent ordinance or resolution of the City Council of the City at a meeting to be held for such purpose.

BE IT FURTHER RESOLVED that the City shall cooperate with and assist the

Company, its representatives and bond counsel in obtaining an allocation of private activity bond issuing authority for the proposed Bonds from the State of Nebraska.

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Adopted by the City Council of the City of Grand Island, Nebraska, February 26, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

CERTIFICATE OF CITY CLERK

I, RaNae Edwards, being first duly sworn, do hereby depose and certify that I am the duly appointed, qualified and acting City Clerk of the City of Grand Island, State of Nebraska; that, as such, I have in my possession, or have access to, the complete corporate records of said City and of its City Council and officers; that I have carefully compared the transcript hereto attached with the aforesaid corporate records; and that said transcript hereto attached is a true, correct and complete copy of all of the corporate records showing the action taken by the City Council of said City at a meeting open to the public on February 26, 2008, relating to an intent resolution for an issue of industrial development revenue bonds by the City on behalf of Microgy, Inc.

WITNESS my hand and the Corporate Seal of said City hereto affixed in Grand Island, Nebraska, this 26th day of February, 2008.

RaNae Edwards, City Clerk