



City of Grand Island

Tuesday, January 25, 2011

Council Session

Item G11

#2011-23 - Approving Consent and Waiver for Baird Holm to Represent the City of Grand Island

Staff Contact: Mary Lou Brown

Council Agenda Memo

From: Mary Lou Brown, Finance Director

Meeting: January 25, 2011

Subject: Consent and Waiver for Baird Holm to Represent the City of Grand Island

Item #'s: G-11

Presenter(s): Mary Lou Brown, Finance Director

Background

Baird Holm LLP has represented the City of Grand Island as the City's bond counsel for bonds issued from time to time by the City wherein Ameritas Investment Corp (Ameritas) has served as the bond underwriter. With the upcoming bond refinancings, Baird Holm will continue to represent the City. Baird Holm LLP has served, and continues to serve, (1) as bond counsel and underwriter's counsel to Ameritas on various matters unrelated to the City, and (2) as special counsel to the City on various matters, including its role as bond counsel. Because of this, Baird Holm can not represent the City in connection with its Bond issues without the consent of both parties.

Discussion

Ameritas consents to Baird Holm LLP representing the City in connection with its Bond Issues and that Baird Holm LLP will not be representing the interests of Ameritas in the City's Bond Issues. Ameritas understands that Baird Holm LLP will not be able to share any confidential information it might obtain in connection with the City's Bond Issues without the consent of the City.

In the event of litigation or a contentious dispute between Ameritas and the City in connection with any of the City's Bond Issues, Baird Holm LLP would not represent any party in such dispute. In the event of such contentious dispute or litigation, Baird Holm LLP would withdraw as counsel for the City with respect to such matter.

Leading up to, during and after Baird Holm's representation of the City in connection with the City's Bond Issues, (1) Baird Holm LLP may continue to represent Ameritas on matters unrelated to the City and the City's Bond Issues, and (2) Baird Holm LLP may represent the City on matters unrelated to the City's Bond Issues.

Alternatives

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

1. Move to approve the consent to and waiver of Baird Holm LLP's representation as set forth in the attached letter.
2. Postpone the issue to a future meeting.
3. Take no action.

Recommendation

City Administration recommends that the Council approve the consent to and waiver of Baird Holm LLP's representation as set forth in the attached letter.

Sample Motion

Move to approve the consent to and waiver of Baird Holm LLP's representation as set forth in the attached letter.

Michael G. Rogers

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January 5, 2011



VIA US MAIL

Ameritas Investment Corp.
440 Regency Parkway Drive, Suite 222
Omaha, Nebraska 68114
Attention: Mr. Bruce Lefler, Senior Vice President

City of Grand Island
P.O. Box 1968
100 East First Street
Grand Island, Nebraska
Attention: Ms. RaNae Edwards, City Clerk

Ladies and Gentlemen:

This letter confirms the request that Baird Holm LLP represent the City of Grand Island, in the State of Nebraska, (the "City") as the City's bond counsel for bonds to be issued from time to time by the City wherein Ameritas Investment Corp. ("Ameritas") will serve as bond underwriter (the "Bond Issues").

As you are aware, Baird Holm LLP has served, and continues to serve, (1) as bond counsel and underwriter's counsel to Ameritas Investment Corp. on various matters unrelated to the City, and (2) as special counsel to the City on various matters, including its role as bond counsel. Because of this, we can not represent the City in connection with its Bond Issues without the consent of both parties.

We understand that Ameritas consents to Baird Holm representing the City in connection with its Bond Issues as described in this letter, and that Baird Holm LLP will not be representing the interests of Ameritas in the City's Bond Issues. Ameritas understands that Baird Holm LLP will not be able to share any confidential information it might obtain in connection with the City's Bond Issues without the consent of the City.

Please be advised that in the event of litigation or a contentious dispute between Ameritas and the City in connection with any of the City's Bond Issues, Baird Holm LLP would not represent any party in such dispute. In the event of such contentious dispute or litigation, Baird Holm LLP would withdraw as counsel for the City with respect to such matter. We understand each of you consent to the foregoing.

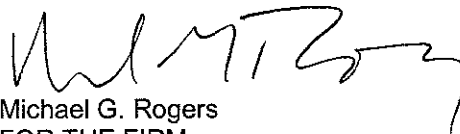
Leading up to, during and after our representation of the City in connection with the City's Bond Issues, (1) Baird Holm LLP may continue to represent Ameritas on matters unrelated to the City and the City's Bond Issues, and (2) Baird Holm LLP may represent the City on matters unrelated to the City's Bond Issues. We understand that each of you also consent to such continuing and future representation by Baird Holm LLP.

cc: ~~Admin~~ Mayor
1-7-11

Ameritas Investment Corp.
City of Grand Island, Nebraska
January 5, 2011
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We appreciate the willingness of each of you to consent to the representation as described in this letter. If this letter accurately sets forth the understanding among us and your consent to and waiver of our representation as described above, please sign the following Consent and Waiver and return a copy of this letter to me.

Yours very truly,

A handwritten signature in black ink, appearing to read "Michael G. Rogers". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael G. Rogers
FOR THE FIRM

MGR/sin

cc: Dale M. Shotkoski, Esq.

Consent and Waiver

The undersigned hereby acknowledge that they have had an opportunity, if they wished to do so, to consult with legal counsel other than Baird Holm with respect to this Consent and Waiver, and agree to the terms of the foregoing letter and: (1) consent to Baird Holm representing the City in connection with its Bond Issues; (2) waive all objections to such representation; (3) consent to Baird Holm's continued representation of (a) Ameritas Investment Corp. and (b) the City in connection with matters unrelated to the City's Bond Issues; and (4) waive objections to and potential conflicts of interest that may exist with respect to such continued representation.

Ameritas Investment Corp.

By: _____
Title: _____

City of Grand Island, in the State of Nebraska

By: _____
Title: _____

RESOLUTION 2011-23

WHEREAS, Ameritas consents to Baird Holm LLP representing the City in connection with its Bond Issues and that Baird Holm LLP will not be representing the interests of Ameritas in the City's Bond Issues; and

WHEREAS, Ameritas understands that Baird Holm LLP will not be able to share any confidential information it might obtain in connection with the City's Bond Issues without the consent of the City; and

WHEREAS, In the event of litigation or a contentious dispute between Ameritas and the City in connection with any of the City's Bond Issues, Baird Holm LLP would not represent any party in such dispute; and

WHEREAS, In the event of such contentious dispute or litigation, Baird Holm LLP would withdraw as counsel for the City with respect to such matter; and

WHEREAS, Leading up to, during and after Baird Holm's representation of the City in connection with the City's Bond Issues, (1) Baird Holm LLP may continue to represent Ameritas on matters unrelated to the City and the City's Bond Issues, and (2) Baird Holm LLP may represent the City on matters unrelated to the City's Bond Issues; and

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

The attached letter accurately sets forth the understanding among Baird Holm LLP, Ameritas and the City of Grand Island and our consent to and waiver of Baird Holm LLP's representation. The Mayor is so authorized to sign the Consent and Waiver document.

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Adopted by the City Council of the City of Grand Island, Nebraska, January 25, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 19, 2011	☐ City Attorney