



City of Grand Island

Tuesday, September 25, 2012

Council Session

Item I3

**#2012-275 - Consideration of Approving the Issuance of
Redevelopment Bonds for the Lincoln Park Pool Project by the
Community Redevelopment Authority**

Staff Contact: Chad Nabity

Council Agenda Memo

From: Chad Nabity, AICP Director

Meeting: September 25, 2012

Subject: Approving the Issuance of Redevelopment Bonds for the Lincoln Park Pool Project by the Community Redevelopment Authority

Item #'s: I-3

Presenter(s): Chad Nabity, AICP Director

Background

The 2013 Community Redevelopment Authority Budget was approved on September 11, 2012 by the Grand Island City Council. This budget contained provisions for the CRA to issue bonds for the reconstruction of the Lincoln Park Pool. The Grand Island City Council has awarded a contract for the construction of the pool and the construction of the new pool has begun.

Bond Council is recommending that the Grand Island City Council pass the attached resolution authorizing the CRA to issue redevelopment bonds in the amount of \$1,800,000 as approved in the 2013 budget.

The City Council has set the levy for the Grand Island CRA at 2.6 cents per \$100 valuation as allowed by State Statutes with the intent that this will generate sufficient revenue to support the payments on these bonds and normal CRA activities.

Authorizing approval of this activity will allow the CRA to pay for the construction of the Lincoln Park Pool as previously authorized by the Grand Island City Council.

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 authorizing the Community Redevelopment Authority to issue revenue bond for the Lincoln Park Pool Project.

Sample Motion

Move to approve resolution #2012-277.

RESOLUTION 2012-275

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, APPROVING THE ISSUANCE OF REDEVELOPMENT REVENUE BONDS (LINCOLN PARK PROJECT – LIMITED TAX PLEDGE), SERIES 2012, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$1,800,000 BY THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF GRAND ISLAND, NEBRASKA; APPROVING THE CERTIFICATION AND LEVY OF LIMITED TAXES UPON TAXABLE PROPERTY WITHIN THE CITY FOR PAYMENT OF PRINCIPAL AND INTEREST ON SAID BONDS AS THE SAME FALL DUE; PROVIDING FOR THE CITY TO UNDERTAKE THE MAKING OF CONTINUING DISCLOSURE FOR SUCH SERIES 2012 BONDS; PROVIDING FOR CERTAIN DETERMINATIONS WITH RESPECT TO THE TAX-EXEMPT STATUS OF INTEREST ON SUCH SERIES 2012 BONDS; AND PROVIDING FOR THE EFFECTIVENESS OF THIS RESOLUTION.

BE IT RESOLVED 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 Community Redevelopment Authority of the City of Grand Island, Nebraska, (the “Authority”) has been duly created and currently exists under the provisions of Ordinance No. 8021 of the City and Sections 18-2101 to 18-2144 and Sections 18-2147 to 18-2153, R.R.S. Neb. 2007, as amended (collectively, the “Act”); that the Authority has agreed or is about to agree to issue and sell its Redevelopment Revenue Bonds (Lincoln Park Pool Project – Limited Tax Pledge), Series 2012, in the aggregate principal amount of not to exceed One Million Eight Hundred Thousand Dollars (\$1,800,000) (the “Bonds”) in order to finance on behalf of the City the construction of a replacement swimming pool facility for the City’s Lincoln Park (the “Project”) as a redevelopment project for CRA Area #1 in accordance with a modification of an existing redevelopment plan entitled “Plan Modification for CRA Area #1 (Lincoln Park Swimming Pool)” (including the prior plan as so modified the “Plan”) which Plan was approved by the Mayor and Council of the City on March 26, 2012; and that in connection with the issuance by the Authority of the Bonds it is necessary and

appropriate for the City to make certain determinations and undertakings related to the Bonds and for the benefit of the purchasers and owners thereof.

Section 2. The City hereby acknowledges and confirms the pledges made for the benefit of the owners of the Bonds as set forth in the Resolution. The City acknowledges that amounts deposited to the Series 2012 Bond Payment Account are pledged to the payment of the principal and interest on the Bonds as the same fall due. The City hereby acknowledges and agrees that the Authority has agreed to certify, in accordance with the terms of Section 18-2107(11) of the Act, annually to the Mayor and Council of the City a tax not to exceed 2.6¢ on each \$100 of taxable valuation in the City (the “Authority Taxes”) and such taxes are to be employed to assist in the defraying of expenses of redevelopment projects, including the payment of principal and interest on the Bonds as issued to pay the cost of the Project; in that such taxes represent a property tax levy for bonds as defined in Section 10-134 approved according to law and secured by a levy on property, are not included in the levy limits established by Section 77-3442, R.R.S. Neb. 2009, or subject to allocation under Section 77-3443, R.R.S. Neb. 2009, as amended; the Mayor and Council hereby approve the terms and provisions of the Resolution and the issuance of the Bonds.

Section 3. In accordance with the requirements of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission, the City, being the creating and appointing body for the Authority and, effectively, the only “obligated person” with respect to the Bonds, agrees that it will provide the following continuing disclosure information to the Municipal Securities Rulemaking Board (the “MSRB”) in an electronic format as prescribed by the MSRB:

- (a) not later than seven months after the end of each fiscal year of the City (the “Delivery Date”), financial information or operating data for the City of the type included in the final official statement for the Bonds under the heading “FINANCIAL STATEMENT” (“Annual Financial Information”);

(b) when and if available, audited financial statements for the City; audited financial information shall be prepared on the basis of generally accepted accounting principles and the standards applicable to financial audits contained in *Governmental Auditing Standards*, issued by the Comptroller General of the United States; and

(c) in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of the holders of the Bonds, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar events of the City or the Authority (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City or the Authority in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City or the Authority, or if such jurisdiction

has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City or the Authority);

(13) the consummation of a merger, consolidation, or acquisition involving the City or the Authority or the sale of all or substantially all of the assets of the City or the Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

Neither the City nor the Authority has undertaken to provide notice of the occurrence of any other event, except the events listed above.

(d) in a timely manner, notice of any failure on the part of the City to provide Annual Financial Information not later than the Delivery Date.

The City agrees that all documents provided to the MSRB under the terms of this continuing disclosure undertaking shall be in such electronic format and accompanied by such identifying information as shall be prescribed by the MSRB. The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information or the accounting methods in accordance with which such information is presented, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City agrees that such covenants are for the benefit of the registered owners of the Bonds (including Beneficial Owners) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under the Resolution. The continuing disclosure obligations of the City and the Authority, as described above, shall cease when none of the Bonds remain outstanding.

Section 4. The Mayor and Council hereby state that it is the intention of the City that interest on the Bonds as issued by the Authority shall be excludable from gross income under the federal income tax by virtue of Section 103 of the Code 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 Authority for the benefit of the purchasers and owners of the Bonds that it will make no use of the proceeds of said issue, including monies held in any sinking fund for payments on the Bonds, which would cause the 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 City hereby confirms the designation by the Authority of the Bonds (as issued by the Authority on behalf of the City) as the Authority’s “qualified tax-exempt obligations” pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that the City does not reasonably expect to issue or have issued on its behalf tax-exempt bonds or other tax-exempt interest bearing obligations (including the Bonds) aggregating in principal amount more than \$10,000,000 during calendar year 2012 (taking into consideration the exception for current refunding issues). The officers of the City (or any one of them) are hereby authorized to make allocations of the Bonds (as to principal maturities) and any other bonds or obligations issued by or on behalf of the City and of the proceeds of the Bonds and debt service funds of the City as may be deemed appropriate under the federal tax laws and regulations. Any allocations made and determinations set forth in a certificate by an officer of the City (which may be in cooperation with any certification provided by the Authority) shall be and constitute authorized determinations made on behalf of the City with the same force and effect as if set forth in this Resolution.

Section 5. The officers of the City (or any one or more of them), as and to the extent not authorized to do so by other provisions of this Resolution, are hereby authorized to take

any and all action and to execute and deliver any and all instruments and certifications determined necessary or appropriate on behalf of the City in connection with the issuance of the Bonds. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution.

Section 6. This Resolution shall be in force and take effect from and after its adoption as provided by law.

PASSED AND APPROVED this 25th day of September, 2012.

Mayor

ATTEST:

City Clerk