

CITY OF LA VISTA
LA VISTA COMMUNITY DEVELOPMENT AGENCY REPORT
OCTOBER 17, 2023 AGENDA

Subject:	Type:	Submitted By:
84 TH STREET REDEVELOPMENT AREA PHASE I TAX INCREMENT FINANCING RESOLUTION AMENDMENTS	◆ RESOLUTIONS (3) ORDINANCE RECEIVE/FILE	KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES

SYNOPSIS

Resolutions have been prepared to amend Resolution No. 17-073, Resolution No. 17-074, and Resolution No. 20-052, which authorized TIF Notes IA, IB and IC, respectively. The amendments will allow the tax increment from specific parcels to be dedicated to individual notes outstanding under the resolutions, rather than leaving the tax increment from multiple parcels combined as has been the arrangement since the notes were issued. The amendments will not affect the total principal amount of or accrued interest on the outstanding TIF notes, the interest rates, or the duration of the existing 15-year division of property taxes dedicated to payment of the TIF notes.

FISCAL IMPACT

The incremental increase in ad valorem taxes on the redeveloped lots has been and will continue to be the only source of funds used to repay the TIF notes.

RECOMMENDATION

Approve.

BACKGROUND

The tax increment financing for a portion of the mixed use redevelopment project in the 84th Street Redevelopment Area was approved pursuant to three resolutions:

- Resolution No. 17-073, as amended by Resolution No. 23-094 (together, the “Note IA Resolution”), which authorized issuance of the Agency’s \$5,312,561 Tax Increment Revenue Note (La Vista City Centre Phase IA Project), Series 2017, dated and issued on September 26, 2017, (“Note IA”);
- Resolution No. 17-074, as amended by Resolution No. 23-095 (together, “Note IB Resolution”), which authorized issuance of the Agency’s \$8,222,287 Tax Increment Revenue Note (La Vista City Centre Phase IB Project), Series 2017, dated and issued on September 26, 2017, (“Note IB”); and
- Resolution No. 20-052 (“Note IC Resolution”; and together with Note IA Resolution and Note IB Resolution, the “Resolutions”), which authorized issuance of the Agency’s \$798,000 Tax Increment Revenue Note (La Vista City Centre Project), Series 2020, (“Note IC”; and together with Note IA and Note IB, the “Notes”).

The Notes were issued to and registered in the name of an affiliate of La Vista City Centre, LLC, the redeveloper for the project (the “Redeveloper”). Prior amendments adopted on August 1, 2023, allowed Notes IA and IB to be split and be paid from the combined increment under the respective resolutions. Redeveloper has requested the Resolutions be further amended, and that Note IC Resolution be amended, to permit tax increment for individual parcels to be dedicated to specific notes under each of the Resolutions, rather than payable ratably from the sources currently dedicated to payment of each Note under the Resolutions. The amendments to the Resolutions and proposed transfers of the Notes will not affect the total principal amount of or accrued interest on the Notes, the interest rates, or the duration of the existing 15-year division of property taxes dedicated to payment of the Notes.

RESOLUTION NO. 23-_____

A RESOLUTION AMENDING RESOLUTION NO. 17-073, AS AMENDED BY RESOLUTION NO. 23-094, RELATING TO TAX INCREMENT REVENUE NOTE (LA VISTA CITY CENTRE PHASE IA PROJECT), SERIES 2017, OF THE LA VISTA COMMUNITY DEVELOPMENT AGENCY, TO ALLOW SEPARATE NOTES ISSUED THEREUNDER TO BE SECURED BY SPECIFIC PARCELS RATHER THAN SECURED EQUALLY UNDER THE RESOLUTION; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, the City of La Vista (the “**City**”) has established a community development agency (the “**Agency**”) under Chapter 18, Article 21, Reissue Revised States of Nebraska, as amended (the “**Act**”);

WHEREAS, the Agency adopted Resolution No. 17-073, on July 5, 2017, (the “**Original Resolution**”) which authorized issuance of the Agency’s \$5,312,561 Community Redevelopment Tax Increment Revenue Note (La Vista City Centre Phase IA Project), Series 2017, dated September 26, 2017 (the “**Original Note**”), and which Original Resolution governs the repayment of the Original Note from the sources provided and described in the Original Resolution;

WHEREAS, the Agency adopted Resolution No. 23-094, on August 1, 2023, (together with the Original Resolution, the “**Amended Resolution**”) which authorized the transfer of the Original Note to one or more transferees, and provided that the resulting transferred notes shall be payable equally and ratably from the sources provided in the Original Resolution. Any Original Note, either as originally issued or as transferred and outstanding as permitted by the Amended Resolution, shall be referred to as the “**Phase IA Note**” whether outstanding as a single or multiple instruments;

WHEREAS, the repayment source for the Phase IA Note under the Amended Resolution is the combined TIF Revenues attributable to that portion of the Redevelopment Area consisting of the following (together, the “**Project Area**”): La Vista City Centre, Lot 15 (“**Lot 15**”); and La Vista City Centre Replat 1, Lot 2 (“**Lot 2**”);

WHEREAS, the Phase IA Note was issued to and is currently registered in the name of an affiliate of the Redeveloper (the “**Current Owner**”) pursuant to the terms of the Original Resolution, and the Current Owner has further requested that the Amended Resolution be amended to allow specified notes outstanding thereunder to be repaid from the specific TIF Revenues attributable to either Lot 2 or Lot 15 included in the Project Area, rather than equally and ratably secured by the combined TIF Revenues from the Project Area; and

WHEREAS, it is necessary, desirable, advisable, and in the best interest of the Agency to amend the Original Resolution for such purposes and in the manner as hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ACTING AS THE COMMUNITY DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Definitions of Words and Terms. Unless otherwise provided herein, and in addition to words and terms defined elsewhere in this second amending resolution (the “**Second Amending**

Resolution”; and the Amended Resolution as further amended by this Second Amending Resolution shall be referred to as the **“Bond Resolution”**), the capitalized words and terms used herein, including in the recitals hereto, shall have the meanings provided in the Amended Resolution. Definitions of capitalized terms in this Second Amending Resolution shall control for purposes of the Bond Resolution to the extent of any conflict under the Amended Resolution.

Section 2. Authorization of Alternative Security for Multiple Notes. As provided in the Amended Resolution, multiple notes issued and outstanding under the Amended Resolution are payable equally and ratably from the TIF Revenues attributable to the Project Area. However, upon the request of the registered owner of all of the outstanding Phase IA Notes, the City may execute a designation (the **“Designation”**) providing that TIF Revenues from Lot 2 shall be dedicated to repayment of a specific identified note and TIF Revenues from Lot 15 shall be dedicated to repayment of a specific identified note. Any such Designation may be included in an agreement with the registered owners of the Phase IA Notes at the time of issuance or transfer of the Phase IA Notes. Any Designation shall bind the City with respect to the TIF Revenues pledged from Lot 2 and from Lot 15 as provided in the Designation until the remaining principal of the applicable note has been repaid in full, or the 15 year period for division of taxes has ended as provided in Section 6.1 of the Original Resolution, whichever occurs first. The terms of the Designation shall be applicable to any transferees or other subsequent registered owners of a note without further agreement by or acknowledgement from the City or registered owners of the notes. Upon execution of a Designation, the City shall reissue all affected notes and shall include language in each form of note to indicate the portion of TIF Revenues pledged for repayment of such note.

Section 3. Further Authority. The officers of the Agency, including the Chair and Secretary, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and to make any changes or additions in this Resolution and the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they determine to be in the Agency's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

Section 4. Effect of Amendment. Except as amended by this Resolution, the Original Resolution is hereby ratified and confirmed in all respects. All resolutions or orders, or parts thereof in conflict with the provisions of this Resolution are to be extent of such conflict hereby repealed.

Section 5. Severability. If any section or other part of this Resolution is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Resolution.

Section 6. Governing Law. This Resolution shall be governed exclusively by and constructed in accordance with the applicable laws of the State.

Section 7. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the governing body of the Agency.

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**PASSED AND APPROVED THIS SEVENTEENTH DAY OF OCTOBER, 2023, BY THE
MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ACTING AS THE
COMMUNITY DEVELOPMENT AGENCY**

(Seal)

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

RESOLUTION NO. 23-_____

A RESOLUTION AMENDING RESOLUTION NO. 17-074, AS AMENDED BY RESOLUTION NO. 23-095, RELATING TO TAX INCREMENT REVENUE NOTE (LA VISTA CITY CENTRE PHASE IB PROJECT), SERIES 2017, OF THE LA VISTA COMMUNITY DEVELOPMENT AGENCY, TO ALLOW SEPARATE NOTES ISSUED THEREUNDER TO BE SECURED BY SPECIFIC PARCELS RATHER THAN SECURED EQUALLY UNDER THE RESOLUTION; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, the City of La Vista (the “**City**”) has established a community development agency (the “**Agency**”) under Chapter 18, Article 21, Reissue Revised States of Nebraska, as amended (the “**Act**”);

WHEREAS, the Agency adopted Resolution No. 17-074, on July 5, 2017, (the “**Original Resolution**”) which authorized issuance of the Agency’s \$8,222,287 Community Redevelopment Tax Increment Revenue Note (La Vista City Centre Phase IB Project), Series 2017, dated September 26, 2017 (the “**Original Note**”), and which Original Resolution governs the repayment of the Original Note from the sources provided and described in the Original Resolution;

WHEREAS, the Agency adopted Resolution No. 23-095, on August 1, 2023, (together with the Original Resolution, the “**Amended Resolution**”) which authorized the transfer of the Original Note to one or more transferees, and provided that the resulting transferred notes shall be payable equally and ratably from the sources provided in the Original Resolution. Any Original Note, either as originally issued or as transferred and outstanding as permitted by the Amended Resolution, shall be referred to as the “**Phase IB Note**” whether outstanding as a single or multiple instruments;

WHEREAS, the repayment source for the Phase IB Note under the Amended Resolution is the combined TIF Revenues attributable to that portion of the Redevelopment Area consisting of the following (together, the “**Project Area**”): La Vista City Centre, Lot 14 (“**Lot 14**”); and La Vista City Centre, Lot 10 (“**Lot 10**”);

WHEREAS, the Phase IB Note was issued to and is currently registered in the name of an affiliate of the Redeveloper (the “**Current Owner**”) pursuant to the terms of the Original Resolution, and the Current Owner has further requested that the Amended Resolution be amended to allow specified notes outstanding thereunder to be repaid from the specific TIF Revenues attributable to either Lot 10 or Lot 14 included in the Project Area, rather than equally and ratably secured by the combined TIF Revenues from the Project Area; and

WHEREAS, it is necessary, desirable, advisable, and in the best interest of the Agency to amend the Original Resolution for such purposes and in the manner as hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ACTING AS THE COMMUNITY DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Definitions of Words and Terms. Unless otherwise provided herein, and in addition to words and terms defined elsewhere in this second amending resolution (the “**Second Amending Resolution**”; and the Amended Resolution as further amended by this Second Amending Resolution shall be referred to as the “**Bond Resolution**”), the capitalized words and terms used herein, including in the recitals

hereto, shall have the meanings provided in the Amended Resolution. Definitions of capitalized terms in this Second Amending Resolution shall control for purposes of the Bond Resolution to the extent of any conflict under the Amended Resolution.

Section 2. Authorization of Alternative Security for Multiple Notes. As provided in the Amended Resolution, multiple notes issued and outstanding under the Amended Resolution are payable equally and ratably from the TIF Revenues attributable to the Project Area. However, upon the request of the registered owner of all of the outstanding Phase IB Notes, the City may execute a designation (the “**Designation**”) providing that TIF Revenues from Lot 10 shall be dedicated to repayment of a specific identified note and TIF Revenues from Lot 14 shall be dedicated to repayment of a specific identified note. Any such Designation may be included in an agreement with the registered owners of the Phase IA Notes at the time of issuance or transfer of the Phase IA Notes. Any Designation shall bind the City with respect to the TIF Revenues pledged from Lot 10 and from Lot 14 as provided in the Designation until the remaining principal of the applicable note has been repaid in full, or the 15 year period for division of taxes has ended as provided in Section 6.1 of the Original Resolution, whichever occurs first. The terms of the Designation shall be applicable to any transferees or other subsequent registered owners of a note without further agreement by or acknowledgement from the City or registered owners of the notes. Upon execution of a Designation, the City shall reissue all affected notes and shall include language in each form of note to indicate the portion of TIF Revenues pledged for repayment of such note.

Section 3. Further Authority. The officers of the Agency, including the Chair and Secretary, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and to make any changes or additions in this Resolution and the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they determine to be in the Agency's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

Section 4. Effect of Amendment. Except as amended by this Resolution, the Original Resolution is hereby ratified and confirmed in all respects. All resolutions or orders, or parts thereof in conflict with the provisions of this Resolution are to be extent of such conflict hereby repealed.

Section 5. Severability. If any section or other part of this Resolution is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Resolution.

Section 6. Governing Law. This Resolution shall be governed exclusively by and constructed in accordance with the applicable laws of the State.

Section 7. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the governing body of the Agency.

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**PASSED AND APPROVED THIS SEVENTEENTH DAY OF OCTOBER, 2023, BY THE
MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ACTING AS THE
COMMUNITY DEVELOPMENT AGENCY**

(Seal)

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

RESOLUTION NO. 23-_____

A RESOLUTION AMENDING RESOLUTION NO. 20-052, RELATING TO TAX INCREMENT REVENUE NOTE (LA VISTA CITY CENTRE PROJECT), SERIES 2020, OF THE LA VISTA COMMUNITY DEVELOPMENT AGENCY, TO ALLOW SEPARATE NOTES ISSUED THEREUNDER TO BE SECURED BY SPECIFIC PARCELS RATHER THAN SECURED EQUALLY UNDER THE RESOLUTION; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, the City of La Vista (the “**City**”) has established a community development agency (the “**Agency**”) under Chapter 18, Article 21, Reissue Revised States of Nebraska, as amended (the “**Act**”);

WHEREAS, the Agency adopted Resolution No. 20-052, on May 19, 2020, (the “**Original Resolution**”) which authorized issuance of the Agency’s \$798,000 Community Redevelopment Tax Increment Revenue Note (La Vista City Centre Project), Series 2020 (the “**Original Note**”), and which Original Resolution governs the repayment of the Original Note from the sources provided and described in the Original Resolution;

WHEREAS, the repayment source for the Phase IB Note under the Amended Resolution is the combined TIF Revenues attributable to that portion of the Redevelopment Area consisting of the following (together, the “**Project Area**”): La Vista City Centre, Lot 3 (“**Lot 3**”); La Vista City Centre, Lot 4 (“**Lot 4**”); and La Vista City Centre, Lot 5 (“**Lot 5**”);

WHEREAS, the Original Note was issued to and is currently registered in the name of an affiliate of the Redeveloper (the “**Current Owner**”) pursuant to the terms of the Original Resolution, and the Current Owner has requested that the Original Resolution be amended to allow transfer of the Original Note to one or more transferees, and that such transferred note be permitted to be repaid from the specific TIF Revenues attributable to one or a combination of Lot 3, Lot 4 or Lot 5 included in the Project Area, rather than equally and ratably secured by the combined TIF Revenues from the Project Area; and

WHEREAS, it is necessary, desirable, advisable, and in the best interest of the Agency to amend the Original Resolution for such purposes and in the manner as hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ACTING AS THE COMMUNITY DEVELOPMENT AGENCY, AS FOLLOWS:

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Section 2. Authorization of Multiple Notes and Transfer. The Original Note may be transferred as a single note or as multiple notes (any such notes referred to herein as the “Note” or “Notes”). If more than one Note is outstanding under the Bond Resolution, all such Notes be issued with the same interest rate and maturity date and shall be payable equally and ratably from the sources provided in the Original Resolution, unless otherwise determined in accordance with Section 3 of this Amending Resolution. A Note may be transferred pursuant to its provisions at the office of the Agency by surrender of such note for cancellation by the Registered Owner, accompanied by a written instrument of transfer, in form satisfactory to the Agency, duly executed by the Registered Owner in person or by such owner’s duly authorized agent, and thereupon the Agency will deliver at its office (or send to the transferee owner or owners thereof at such transferee owner’s or owners’ risk and expense), registered in the name of such transferee owner or owners, a new Note or Notes of the same interest rate, aggregate principal amount and maturity. One such note may be transferred for several such notes of the same interest rate and maturity, and for a like aggregate principal amount, and several such notes may be transferred for one or several such notes, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a note, the surrendered note shall be canceled and destroyed. Unless otherwise provided pursuant to the terms of Section 3 of this Amending Resolution, all notes issued upon transfer of the notes so surrendered shall be valid obligations of the Agency evidencing the same obligation as the note or notes surrendered, including the principal and accrued interest thereon, and shall be entitled to all the benefits and protection of the Original Resolution as amended by this Resolution to the same extent as the note or notes upon transfer of which they were delivered.

Section 3. Authorization of Alternative Security for Multiple Notes. Upon the request of the registered owner of all of the outstanding Notes, the City may execute a designation (the “Designation”) providing that TIF Revenues from one or a combination of Lot 3, Lot 4 or Lot 5 shall be dedicated to repayment of a specific identified Note. Any such Designation may be included in an agreement with the registered owners of the Notes at the time of issuance or transfer of the Notes. Any Designation shall bind the City with respect to the TIF Revenues pledged from Lot 3, Lot 4 and Lot 5 as provided in the Designation until the remaining principal of the applicable Note has been repaid in full, or the 15 year period for division of taxes has ended as provided in Section 6.1 of the Original Resolution, whichever occurs first. The terms of the Designation shall be applicable to any transferees or other subsequent registered owners of a Note without further agreement by or acknowledgement from the City or registered owners of the Notes. Upon execution of a Designation, the City shall reissue all affected Notes and shall include language in each form of Note to indicate the portion of TIF Revenues pledged for repayment of such Note.

Section 4. Further Authority. The officers of the Agency, including the Chair and Secretary, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and to make any changes or additions in this Resolution and the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they determine to be in the Agency's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

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