

ITEM B

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 20, 2014 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
NOTICE OF INTENT — IRS CODE	◆ RESOLUTION ORDINANCE RECEIVE/FILE	SHEILA A. LINDBERG FINANCE DIRECTOR

**SYNOPSIS**

A Resolution of Intent has been prepared to preserve the City's ability to reimburse itself from the proceeds of a tax exempt financing.

**FISCAL IMPACT**

TBD

**RECOMMENDATION**

Approval.

**BACKGROUND**

Staff recently became aware that the City has the ability to lease-purchase the Hupp Drive property (*Parks Facility*) and subsequent improvements as we have done in past financings using the Facilities Corporation. Specifically, under Federal Tax Regulations, the City may reimburse itself for expenditures made prior to the issuance of tax-exempt obligations so long as (a) the City has adopted a reimbursement resolution declaring its official intent to reimburse itself from such tax-exempt financing and (b) the expenditure was not made more than 60 days prior to adopting the reimbursement resolution.

In this case, the expenditure was made on March 21<sup>st</sup> and the 60<sup>th</sup> day after is May 20<sup>th</sup>, so a resolution adopted on May 20<sup>th</sup> would allow the City to preserve the right to reimburse itself from proceeds of a tax-exempt financing. It is recommended that the Council approve the Notice of Intent resolution in order to preserve this option which will be more closely evaluated as part of the FY 15 budget preparation and long-range forecast planning.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF LA VISTA, NEBRASKA TO REIMBURSE CERTAIN EXPENSES FROM THE PROCEEDS OF CITY OF LA VISTA FACILITIES CORPORATION BUILDING BONDS IN CONNECTION WITH THE ACQUISITION OF A PUBLIC WORKS BUILDING AND CERTAIN IMPROVEMENTS TO PUBLIC WORKS FACILITIES**

**BE IT RESOLVED** by the Council (the "Council") of the City of La Vista, Nebraska (the "City") as follows:

**Section 1. Findings.**

- (a) The City has acquired a building for use in connection with its public works function and has begun certain improvements to its public works facilities (together, the "Project").
- (b) Pursuant to Section 19-2421, Reissue Revised Statutes of Nebraska, as amended ("Section 19-2421"), the City is authorized to enter into contracts for the lease of real and personal property for any purpose for which the city is authorized by law to purchase property or construct improvements, which contracts shall not be restricted to a single year and may provide for the purchase of the property in installment payments.
- (c) The City anticipates entering into a lease-purchase agreement (the "Lease Agreement") with City of La Vista Facilities Corporation (the "Facilities Corporation") pursuant to its authority under Section 19-2421 in connection with the Project to finance all or a portion of the costs of the Project through issuance, sale and delivery by the Facilities Corporation of its building bonds (the "Bonds").
- (d) The City anticipates incurring a portion of the costs of the Project prior to the issuance of the Bonds and desires to preserve its ability to reimburse such costs under the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations thereunder (the "Regulations").
- (e) The Regulations govern the City's use of proceeds derived from the sale of the Bonds to reimburse "original expenditures" made by the City prior to the authorization of the Bonds. Specifically, the Code requires the City to declare its official intent to reimburse original expenditures made in furtherance of the Project not later than 60 days after payment of such original expenditures. The Code requires that tax-exempt obligations be issued, and a reimbursement allocation be made, from the proceeds of those obligations within 18-months after the later of the date the original expenditure is paid or the Project is placed in service or abandoned, but in no event more than three (3) years after the date the expenditure is paid.
- (f) It is necessary, desirable, advisable and in the best interests of the City that the requirements of the Regulations be satisfied to preserve the ability of the City to reimburse costs of the Project made by the City from and after the date of the passage and adoption of this Resolution from the proceeds of the Bonds.

## **Section 2. Declaration of Intent and Related Matters.**

(a) In accordance with the provisions of this Resolution and Section 1.150-2 of the Regulations, the Council hereby declares the official intent of the City to reimburse all or part of the costs of the Project through the execution and delivery of the Lease Agreement and the issuance of the Bonds in connection therewith, the interest portion of which will be excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. Prior to the execution and delivery of the Lease Agreement and the issuance of the Bonds, the City is authorized to advance moneys in an amount not to exceed \$900,000 for the purposes hereinbefore described.

(b) Except for (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) "de minimus expenditures" defined under Section 1.150-2(f)(1) of the Regulations, and (iii) "preliminary expenditures" defined under Section 1.150-2(f)(2) of the Regulations, no expenditures made in furtherance of the Project have been paid by the City more than 60 days prior to the adoption of this Resolution.

(c) Payments under the Lease Agreement constituting debt service on the Bonds will be paid from the City's General Fund.

(d) The Bonds will be issued in the amount, and upon the terms and conditions agreed to between or among the City, the Facilities Corporation under the Lease Agreement and the purchaser(s) of the Bonds, as authorized by the Council at a meeting held for such purpose.

(e) As of the date of this Resolution, there are no funds of the City reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than the contemplated issuance of the Bonds.

## **Section 3. Authorizations.**

(a) The Director of Finance and the City Administrator (each an "Authorized Officer") are hereby authorized to take any further action that is necessary to preserve the ability of the City to reimburse original expenditures made in furtherance of the Project from and after the date of the passage and adoption of this Resolution from the proceeds of the Bonds.

(b) The Authorized Officers shall be, and each of them hereby is, authorized to execute on behalf of the City and to deliver any and all other instruments and documents including, but not limited to, such certificates or instruments as may be required under the terms of this Resolution necessary to be executed and delivered in connection with this Resolution and the approvals made hereby.

(c) An Authorized Officer shall be responsible for making the "reimbursement allocations" described in Section 1.150-2 of the Regulations by transferring the appropriate amount of Bond proceeds to the City accounts used to temporarily finance some or all of the Project. Each allocation must be evidenced by an entry on the official

books of the City maintained for the Project and must specifically identify the original expenditure being reimbursed.

**Section 4. Ratification.** All acts and deeds heretofore done by any officer, employee or agent of the City, on behalf of the City, to preserve the City's ability to reimburse expenditures made in furtherance of the Project with the proceeds of the Bonds are hereby ratified, confirmed and approved.

**Section 5. Effective Dates.** This Resolution will be in full force and effect from and after its passage and adoption by the Council and approval by the Mayor.

**Section 6. Conflicting Resolutions Repealed.** All resolutions of the Council, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

PASSED AND APPROVED THIS 20TH DAY OF MAY, 2014

CITY OF LA VISTA, NEBRASKA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk