

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 15, 2009 AGENDA**

Subject:	Type:	Submitted By:
AMENDMENT TO LEASE-PURCHASE AND REFUNDING SERIES 2009 BOND ISSUE	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	SHEILA LINDBERG FINANCE DIRECTOR

SYNOPSIS

An ordinance has been prepared authorizing an amendment to lease-purchase agreement with Facilities Corporation with regards to the Refunding of the 2002 \$4,070,000 Police Facility Lease Purchase Bond Issue. This will be the Refunding Bonds, Series 2009 in the principal amount of \$3,050,000.

FISCAL IMPACT

Savings of \$228,512 will be recognized over time in the Debt Service Fund as a result of the lower interest rate.

RECOMMENDATION

Approval.

BACKGROUND

The City is paying an average coupon (interest) rate of 4.9% on these current bond issues; however, with the refunding, the average coupon rate will fall to 3.8%. The refinancing of these bond issues will help build up the Debt Service Fund in order to ensure the long term sustainability of the fund and to meet the City's current and future debt obligations.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AN AMENDMENT TO THE EXISTING LEASE-PURCHASE AGREEMENT WITH CITY OF LA VISTA FACILITIES CORPORATION RELATING TO THE CITY'S POLICE STATION BUILDING USED BY THE CITY OF LA VISTA, NEBRASKA; APPROVING THE EXECUTION OF DOCUMENTS WITH RESPECT TO SAID AMENDMENT TO LEASE-PURCHASE AGREEMENT; AND PROVIDING FOR THE PUBLISHING OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

Section 1. The Mayor and Council hereby find and determine that City of La Vista Facilities Corporation (the "Corporation") has been formed under the Nebraska nonprofit corporation laws for the purposes of acquiring real and personal property and leasing the same to the City; that the Corporation has entered into a Lease-Purchase Agreement dated as of March 15, 2002, with the City (the "Original Agreement") whereby the City has agreed to acquire a police station facility for the City (the "Project") all pursuant to the provisions of Section 19-2421, R.R.S. Neb. 1997; that Building Bonds (La Vista Police Facility Project), Series 2002, in the aggregate principal amount of \$4,070,000, (the "2002 Bonds") were issued on behalf of the City by the Corporation in order to finance the construction of the Project, and that since the 2002 Bonds were issued, the rates of interest available in the market have so declined that by issuing its refunding bonds to provide for the payment and redemption of the 2002 Bonds, a substantial savings in the amount of yearly running interest will be made and the final maturity of such indebtedness may be shortened thereby reducing the amount of payments required of the City under the Lease-Purchase Agreement; that in order to issue such refunding bonds, it is necessary and advisable for the City to enter into an amendment to the Original Agreement with the Corporation (the "Amendment"; and together with the Original Agreement, the "Lease-Purchase Agreement"); that the documents necessary for the transaction have been prepared and said documents should be approved in substantially the form presented herewith and their execution authorized.

Section 2. The City of La Vista shall enter into the First Amendment to Lease-Purchase Agreement with the Corporation, whereby the Corporation will continue to lease the Project to the City and that said First Amendment to Lease-Purchase Agreement in substantially the form and content presented at this meeting is hereby approved.

Section 3. The Mayor and City Clerk of the City be and they are hereby authorized and directed to execute and deliver on behalf of the City said First Amendment to Lease-Purchase Agreement, including any necessary counterparts, in substantially the form and content as presented to this meeting, but with such changes or modifications therein (including any reductions in stated amounts of basic rentals determined based upon the terms of the bonds described in Section 4 of this Ordinance) as to them seem necessary, desirable or appropriate for or on behalf of

the City, such determination to be evidenced by the execution thereof; and said Mayor and City Clerk are further authorized and directed to execute and deliver any other documents or certificates and to do all other things necessary or appropriate in connection with said First Amendment to Lease-Purchase Agreement.

Section 4. The Mayor and Council have heretofore approved and hereby approve the formation of City of La Vista Facilities Corporation, including the Articles of Incorporation and Bylaws thereof and the three directors thereof; and further approves the First Supplemental Mortgage, Trust Indenture and Security Agreement from the Corporation in substantially the form and content presented at this meeting to be executed in favor of Bankers Trust Company, National Association, successor in interest to TeamBank, N.A., as trustee, under which Refunding Bonds (La Vista Police Facility Project), Series 2009, in the aggregate principal amount of not to exceed \$3,050,000, are to be issued, and the City hereby approves the issuance of said Refunding Bonds, in such principal amount and bearing such rates of interest as shall be approved by the Mayor and City Clerk; provided, however, the final maturity of such Refunding Bonds may not be later than March 15, 2022, and the debt service payable on the Refunding Bonds must provide at least a net present value savings to the City on its payments under the First Amendment to Lease Purchase Agreement over its payments under the Original Agreement. The Mayor and Council hereby further approve the sale of the Refunding Bonds to D.A. Davidson & Co., at the price of _____% of the principal amount thereof (or such more favorable price as can be agreed upon) plus accrued interest to the date of purchase. The Mayor is hereby further authorized to approve a bond purchase agreement, in standard form, by and between City of La Vista Facilities Corporation and said purchaser and to approve at the time of closing of the purchase of said Refunding Bonds and approve the final form of said First Supplemental Mortgage, Trust Indenture and Security Agreement in substantially the form and content presented at this meeting, but with such changes or modifications as to him seem necessary, desirable or appropriate for or on behalf of the City, such determination to be evidenced by the execution thereof.

Section 5. The Mayor and Council hereby state that it is the intention of the City that interest on said Refunding Bonds issued by said Corporation shall be excludable from gross income under the federal income tax by virtue of Section 103 of the Internal Revenue Code of 1986, as amended, and Revenue Ruling 63-20 and Revenue Procedure 82-26 of the Internal Revenue Service and the Mayor and Council hereby authorize the Mayor, the City Clerk and the City Treasurer (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 Corporation for the benefit of the purchasers and holders of said Refunding Bonds that it will make no use of the

proceeds of said issue, including monies held in any sinking fund for the payment of lease rentals or principal and interest on said Refunding Bonds, which would cause said Refunding Bonds to be arbitrage bonds within the meaning of Section 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended, 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. Said Refunding Bonds, as issued on behalf of the City are hereby designated by the City as "qualified tax-exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, (the "Code") and the City in connection with entering into said First Amendment to Lease-Purchase Agreement hereby covenants and warrants that it does not anticipate issuance directly by it or on its behalf of tax-exempt bonds or other tax-exempt interest bearing obligations in an amount exceeding \$30,000,000 in calendar 2009, taking into consideration statutory exceptions relating to refunding transactions. In connection with the issuance of the 2002 Bonds, the Corporation was determined to be a subordinate entity issuing bonds on behalf of the City within the meaning of Section 148(f)(4)(D)(iv) of the Code and the City irrevocably allocated \$4,070,000 in principal amount of the 2002 Bonds for the calendar year 2002 to said Corporation with respect to the 2002 Bonds pursuant to said Section 148(f)(4)(D)(iv) and determined that the City will receive substantial benefits from the issuance of said Series 2002 Bonds; and such determinations and allocations are hereby ratified and confirmed.

Section 6. The Mayor and Council hereby approves the draft Preliminary Official Statement in substantially the form and content presented at this meeting with respect to said Refunding Bonds and hereby authorizes the Mayor to approve a Preliminary Official Statement in definitive form, but with such changes or modifications as to him seem necessary, desirable or appropriate for or on behalf of the City, and further approves the final Official Statement for said Refunding Bonds with appropriate changes to reflect the final terms for said Refunding Bonds such approval to be evidenced by his execution thereof.

Section 7. The City Clerk and City Administrator are hereby designated as the initial Project Manager and Alternate Project Manager under the terms of the First Supplemental Mortgage, Trust Indenture and Security Agreement as approved in this Ordinance.

Section 8. This Ordinance shall be in force and take effect from and after its publication as provided by law.

PASSED AND APPROVED THIS 15TH DAY OF SEPTEMBER 2009.

ATTEST:

Douglas Kindig, Mayor

Pamela A. Bueth, CMC
City Clerk

(SEAL)

The undersigned City Clerk of the City of La Vista, Nebraska, does hereby certify that the above and foregoing is a true and correct extract from the minutes of the City Council of the City of La Vista for the meeting indicated therein; that the subjects shown as considered in said minutes were contained in the agenda for said meeting, which agenda, kept continually current, was available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least 24 hours prior to said meeting; that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, publicly announced and posted during such meeting in the room in which such meeting was held; that at least one copy of all ordinances, resolutions or other reproducible materials discussed at the meeting was available at the meeting for examination and copying by members of the public; that the minutes of the City Council of the City of La Vista, Nebraska from which the annexed and foregoing transcript of proceedings has been extracted, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of the City Council of the City of La Vista were provided the advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

City Clerk

[SEAL]

NOTICE OF PUBLICATION
OF ORDINANCE NO. _____
IN PAMPHLET FORM

Public Notice is hereby given that at a meeting of the Mayor and City Council of the City of La Vista, Nebraska, held on Tuesday, September 15, 2009, there was passed and adopted Ordinance No. _____ entitled:

AN ORDINANCE APPROVING AN AMENDMENT TO THE EXISTING LEASE-PURCHASE AGREEMENT WITH CITY OF LA VISTA FACILITIES CORPORATION RELATING TO THE CITY'S POLICE STATION BUILDING USED BY THE CITY OF LA VISTA, NEBRASKA; APPROVING THE EXECUTION OF DOCUMENTS WITH RESPECT TO SAID AMENDMENT TO LEASE-PURCHASE AGREEMENT; AND PROVIDING FOR THE PUBLISHING OF THIS ORDINANCE.

Said Ordinance was published in pamphlet form on _____, 2009. Copies of said Ordinance as published in pamphlet form are available for inspection and distribution at the Office of the City Clerk, in the City of La Vista, Nebraska.

City Clerk

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