

City Council Meeting

7.A.

Meeting Date: 01/10/2017

Submitted By: Kathy Sexton, City Manager

Agenda Category: New Business

Subject:

Resolution Authorizing the Marketing of STAR Bonds

Guests:

- Joe L. Norton, Esq., Gilmore & Bell, P.C.

Background:

- The proposed action is to authorize marketing of STAR bonds, which is the final step before the City Council is asked to approve the sale of the bonds (scheduled for the Jan. 24 meeting of the City Council).
- These bonds will provide \$18.9 million to be used to construct infrastructure and provide for a portion of the costs of the project, as noted in the STAR Bond Project Plan and as approved by the City Council on July 26, 2016 and by the Kansas Secretary of Commerce on October 19, 2016.
- The City engaged Stifel, Nicolaus & Company to serve as underwriter of these bonds and continues to benefit from the services of Greg Vahrenberg with Piper Jaffray & Co., who serves as our Financial Advisor on all bond matters.

Financial/Sustainability Considerations:

- Section 1 of the resolution notes the aggregate principal amount shall not exceed \$23 million.
 - This includes the \$18.9 million needed for project costs plus a reserve fund amount, capitalized interest, and costs of issuance.
 - The current estimate for a total amount is \$21,850,000, but \$23 million is used in the resolution to provide some room to adjust the final sizing of the bond issue as needed.
- The same is true with the interest rate. Section 1 of the resolution notes the true interest cost shall not exceed 6.25%.
 - This rate is used to provide room to adjust as needed.
 - The interest rate likely will be somewhere between 4.0% and 5.5%.

Legal Considerations:

- Gilmore & Bell serves as the City's bond counsel and has verified this issue is in full compliance with state laws and local resolutions and ordinances.

Recommend a Motion to:

- Approve a resolution authorizing the sale of Sales Tax Special Obligation Revenue Bonds, Series 2017.

Attachments

011017 STAR Bond Resolution

RESOLUTION NO. 1-2017

A RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF THE CITY OF DERBY, KANSAS, SALES TAX SPECIAL OBLIGATION REVENUE BONDS (DERBY STAR BOND PROJECT AREA), SERIES 2017.

WHEREAS, the City of Derby, Kansas (the “City”), is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State of Kansas (the “State”) as a city of the second class; and

WHEREAS, pursuant to the provisions of K.S.A. 12-17,160, *et seq.*, as amended (the “Act”), the City Council of the City (the “Governing Body”), adopted on July 16, 2015, Resolution No. 19-2015 establishing its intent to create a STAR bond project district within the City (the “STAR Bond District”) and setting a date for a public hearing with respect thereto; and

WHEREAS, on July 30, 2015, the Secretary of Commerce of the State of Kansas (the “Secretary”) determined that the STAR Bond District is an “eligible area” under provisions of the Act; and

WHEREAS, pursuant to the provisions of the Act, and following a public hearing, the Governing Body passed Ordinance No. 2242 on September 8, 2015, which created the STAR Bond District; and

WHEREAS, the City prepared the STAR Bond Project Plan for the STAR Bond District (the “Project Plan”) in consultation with the City’s Planning Commission, which Project Plan provides for the redevelopment of real property within the STAR Bond District as described therein (the “Project”); and

WHEREAS, on June 6, 2016, the Governing Body adopted Resolution No. 25-2016 setting a date for a public hearing with respect the Project Plan; and

WHEREAS, pursuant to the provisions of the Act, and following a public hearing, the City passed Ordinance No. 2279 on July 26, 2016, adopting the Project Plan; and

WHEREAS, on October 19, 2016, the Secretary: (a) determined that the STAR Bond District is an “eligible area” under the Act, (b) approved the Project as a “STAR bond project” within the meaning of the Act and (c) approved the issuance of up to \$18,900,000 (exclusive of approved financing costs) of STAR Bonds to be issued to finance the Project;

WHEREAS, the City is authorized under the Act to issue special obligation bonds for the purpose of implementing the Project Plan; and

WHEREAS, the Governing Body has heretofore selected the firm of Piper Jaffray & Co. (the “Financial Advisor”), as financial advisor and the firm of Stifel, Nicolaus & Company, Incorporated, (the “Underwriter”), as underwriter for one or more series of special obligation bonds for the purpose of implementing the Project Plan; and

WHEREAS, the City desires to authorize the Underwriter, in consultation with City Administration and the Financial Advisor, to proceed with the offering for sale of such special obligation bonds; and

WHEREAS, one of the duties and responsibilities of the City is to prepare and distribute a preliminary official statement relating to such special obligation bonds; and

WHEREAS, the City desires to authorize the Financial Advisor and Gilmore & Bell, P.C., Wichita, Kansas, the City’s bond counsel (“Bond Counsel”), in conjunction with the Director of Finance and the Underwriter,

and its legal counsel, to proceed with the preparation and distribution of a preliminary official statement and related sale materials and to authorize the distribution thereof and all other preliminary action necessary to sell such special obligation bonds; and

WHEREAS, due to the volatile nature of the municipal bond market and the desire of the City to achieve maximum benefit of timing of the sale of such special obligation bonds, the Governing Body desires to authorize the Mayor to confirm the sale of such special obligation bonds, if necessary, prior to the next meeting of the Governing Body to adopt the necessary ordinance providing for the issuance thereof.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DERBY, KANSAS, AS FOLLOWS:

Section 1. The Underwriter, in conjunction with the City Manager, the Director of Finance and the Financial Advisor, is hereby authorized to proceed with the offering for sale of the City's Sales Tax Special Obligation Revenue Bonds (Derby STAR Bond Project) Series 2017 (the "Series 2017 Bonds") for the purpose of implementing the Project Plan by providing funds to finance a portion of the costs of the Project and related reserves and costs of issuance, as more fully described in the hereinafter defined Preliminary Official Statement. The Series 2017 Bonds shall be sold, subject to the approving opinion of Bond Counsel. The timing of offering for sale, the pricing, the determination of the structuring and repayment terms of the Series 2017 Bonds and the selection of various other necessary professionals necessary to complete the issuance of the Series 2017 Bonds, shall be determined by the City Manager, in consultation with the Director of Finance, the Financial Advisor, Bond Counsel, the Underwriter and the Secretary. The confirmation of the sale of the Series 2017 Bonds shall be subject to the execution of a bond purchase agreement between the Underwriter and the City (the "Purchase Agreement") in a form approved by Bond Counsel and the City Attorney, the passage of an ordinance by the Governing Body authorizing the issuance of the Series 2017 Bonds and the execution of various documents necessary to deliver the Series 2017 Bonds. The Mayor is hereby authorized to execute the Purchase Agreement for the Series 2017 Bonds, subject to the following parameters: (a) the aggregate principal amount shall not exceed \$[_____], (b) the true interest cost shall not exceed [___]%; and (c) the approval of the Secretary.

Section 2. The Preliminary Official Statement relating to the Series 2017 Bonds (the "Preliminary Official Statement") is hereby approved in substantially the form presented to the Governing Body this date, with such changes or additions as the Mayor, City Manager and Director of Finance shall deem necessary and appropriate. The Underwriter is hereby authorized to use such document, as approved by such City officials, in connection with the sale of the Series 2017 Bonds.

Section 3. For the purpose of enabling the Underwriter to comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), the Mayor and Director of Finance are hereby authorized: (a) to approve the form of the Preliminary Official Statement and to execute the "Certificate Deeming Preliminary Official Statement Final" in substantially the form attached hereto as *Exhibit A* as approval of the Preliminary Official Statement, such official's signature thereon being conclusive evidence of such official's and the City's approval thereof; (b) covenant to provide continuous secondary market disclosure by transmitting certain financial information and operating data and other information necessary to comply with the Rule to the Municipal Securities Rulemaking Board; and (c) take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Underwriter to comply with the requirement of the Rule.

Section 4. The City agrees to provide to the Underwriter within seven business days of the date of the sale of Securities or within sufficient time to accompany any confirmation that requests payment from any customer of the Underwriter, whichever is earlier, sufficient copies of the final Official Statement to enable the Underwriter to comply with the requirements of the Rule and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

Section 5. The Mayor, City Manager, Director of Finance, Clerk, and the other officers and representatives of the City, the Financial Advisor and Bond Counsel are hereby authorized and directed to take such other action as may be necessary to carry out the sale of the Series 2017 Bonds.

Section 6. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

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ADOPTED by the City Council of the City of Derby, Kansas, on January 10, 2017.

(SEAL)

Mayor

ATTEST:

Clerk

EXHIBIT A

RULE 15c2-12 CERTIFICATE OF THE CITY

**CITY OF DERBY, KANSAS
SALES TAX SPECIAL OBLIGATION REVENUE BONDS
(DERBY STAR BOND PROJECT AREA)
SERIES 2017**

The undersigneds are the duly acting Mayor and Director of Finance of the City of Derby, Kansas (the "City"), and are authorized to deliver this Certificate to Stifel, Nicolaus & Company, Incorporated, as the underwriter (the "Underwriter") of the above-referenced bonds (the "Series 2017 Bonds") on behalf of the City. In accordance therewith, the undersigneds hereby certify as follows:

1. This certificate is delivered to enable the Underwriter to comply with Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") in connection with the offering and sale by the City of the Series 2017 Bonds.

2. In connection with the offering and sale of the Series 2017 Bonds, there has been prepared a Preliminary Official Statement, dated [POS Date], 2017, setting forth information concerning the Series 2017 Bonds and the City (the "Preliminary Official Statement").

3. As used herein, the term "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Series 2017 Bonds depending on such matters, all with respect to the Series 2017 Bonds.

4. The section of the Preliminary Official Statement entitled "CONTINUING DISCLOSURE" describes the agreements the City and Derby Destination Development, LLC, a Kansas limited liability company (the "Developer") expect to make, for the benefit of the beneficial owners of the Series 2017 Bonds, by which the City and Developer, as applicable, will undertake to provide ongoing disclosure in accordance with paragraph (b)(5)(i) of the Rule.

5. The City hereby deems, within the meaning of the Rule, the information regarding the City contained in the Preliminary Official Statement to be final as of its date, except for the Permitted Omissions.

CITY OF DERBY, KANSAS

By: _____
Title: Mayor

By: _____
Title: Director of Finance