



To: MAYOR AND COUNCIL

Agenda Item #: VIII. F.

From: John Wallin, Finance Director

Action

Discussion

Date: June 17, 2014

Information

Subject: Resolution No. 2014-64 Authorizing the Ground Lease & Lease Agreement Providing For Construction of the Edina Sports Dome, Braemar Outdoor Ice Rink and Lease by the City And Improvements to Braemar Arena and Pamela Park

Action Requested:

Adopt Resolution No. 2014-64 Authorizing the Execution of a Ground Lease and a Lease Agreement providing for the Construction of the Edina Sports Dome, Braemar Outdoor Ice Rink, and the Lease thereof by the City and Improvements to Braemar Arena and Pamela Park, and Approving the Form of a Resolution and an Official Statement

Information / Background:

The \$16,360,000 Public Project Revenue Bonds, Series 2014 has two purposes: 1) \$12,445 million is for the construction of a Sports Dome, a new Braemar Outdoor Ice Rink and Braemar refrigeration system improvements and 2) \$3.2 million Pamela Park improvements to renovate fields, parking, trails and a reconstructed shelter building. Attached is the resolution authorizing the execution of a ground lease and a lease agreement providing for the construction of the above projects and the lease thereof by the City as drafted by the City's bond counsel, Dorsey & Whitney. These agreements are similar to what has been done in the past with previous issues of Public Project Revenue Bonds including bonds to finance the building of Gymnasiums and a portion of the Public Works facility.

The award of sale of the Public Project Revenue Bonds is a Housing and Redevelopment Authority Resolution and the authorization of the lease agreement is between the Housing Redevelopment Authority and the City.

The form of the Ground Lease between the City of Edina and Edina Housing and Redevelopment Authority and the Lease Agreement between the Edina Housing and Redevelopment Authority and City of Edina are included with the Housing and Redevelopment Authority Item V.

The bids will be received and tabulated by the City's financial advisor, Ehlers & Associates, Inc. on Tuesday, June 17. The bids and Ehlers & Associates analysis will be presented to the City Council at the June 17 Council meeting.

ATTACHMENT:

Resolution 2014-64

CERTIFICATION OF MINUTES RELATING TO
PUBLIC PROJECT REVENUE BONDS, SERIES 2014
(CITY OF EDINA ANNUAL APPROPRIATION LEASE OBLIGATIONS)
HOUSING AND REDEVELOPMENT AUTHORITY

Municipality: City of Edina

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting, held on June 17, 2014, at 7:00 o'clock p.m., at the City Hall, Edina, Minnesota.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting, including:

RESOLUTION NO. 2014-64

RESOLUTION AUTHORIZING THE EXECUTION OF A
GROUND LEASE AND A LEASE AGREEMENT PROVIDING
FOR THE CONSTRUCTION OF THE EDINA SPORTS DOME,
BRAEMAR OUTDOOR ICE RINK AND THE LEASE
THEREOF BY THE CITY AND IMPROVEMENTS TO
BRAEMAR ARENA AND PAMELA PARK, AND APPROVING
THE FORM OF A RESOLUTION AND AN OFFICIAL
STATEMENT

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the bonds referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of the corporation in my legal custody, from which they have been transcribed; that the documents are a correct and complete transcript of the minutes of a meeting of the governing body of the corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at the meeting, insofar as they relate to the bonds; and that the meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording on June __, 2014.

City Clerk

Councilmember _____ introduced the following resolution and moved its adoption, which motion was seconded by Councilmember _____:

RESOLUTION NO. 2014-64

RESOLUTION AUTHORIZING THE EXECUTION OF A
GROUND LEASE AND A LEASE AGREEMENT PROVIDING
FOR THE CONSTRUCTION OF THE EDINA SPORTS DOME,
BRAEMAR OUTDOOR ICE RINK AND THE LEASE
THEREOF BY THE CITY AND IMPROVEMENTS TO
BRAEMAR ARENA AND PAMELA PARK, AND APPROVING
THE FORM OF A RESOLUTION AND AN OFFICIAL
STATEMENT

WHEREAS, the City of Edina (the "City") desires to provide adequate facilities for maintenance and public safety; and,

WHEREAS, pursuant to Minnesota Statutes, Sections 465.71 and 471.64, the City is authorized to enter into leases of real property, with an option to purchase, provided that the City retains the right to cancel said lease-purchase contract at the end of any fiscal year during its term; and,

WHEREAS, pursuant to said statutory authority, the City proposes to enter into a Lease Agreement, dated as of July 1, 2014 (the "Lease"), with the Edina Housing and Redevelopment Authority (the "Authority"), as lessor, and the City, as lessee, pursuant to which the Authority will acquire, construct, remodel, renovate and furnish additional recreational facilities of the City consisting of a sports dome, outdoor refrigerated ice rink and improvements to Braemar Arena and Pamela Park (the "Facilities"), and the City will lease a portion of the Facilities from the Authority; and,

WHEREAS, the Authority (a) authorized the sale of its \$16,360,000 Public Project Revenue Bonds, Series 2014 (City of Edina Annual Appropriation Lease Obligations) (the "Bonds"), to finance the cost of acquiring, remodeling, renovating and furnishing the Facilities and (b) proposes to adopt a resolution awarding the sale of the Bonds on June 17, 2014 (the "Bond Resolution");

WHEREAS, a form of the Lease and the Bond Resolution have been submitted to and reviewed by this Council;

WHEREAS, a form of the Lease and the Bond Resolution have been submitted to and, along with the form of a proposed Ground Lease, to be dated as of July 1, 2014 (the "Ground Lease"), between the City, as lessor, and the Authority, as lessee, pursuant to which the City will ground lease to the Authority the real estate upon which the portion of the Facilities subject to the Lease is located (as permitted by Minnesota Statutes, Section 465.035).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina that the City hereby approves the form of the Lease and Ground Lease and the Mayor and City Manager are authorized and directed to execute, attest and deliver the Lease and Ground Lease on behalf of the City. All of the provisions of the Lease and Ground Lease, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Lease and Ground Lease shall be substantially in the form submitted to this Council with such necessary and appropriate variations, omissions and insertions as permitted or required, or as the Mayor, in his discretion, shall determine, and the execution thereof by the Mayor shall be conclusive evidence of such determination.

BE IT FURTHER RESOLVED that the City Council hereby approves the form of the Official Statement, relating to the Bonds (the "Official Statement"), a draft of which has been submitted to and received by this Council, and hereby ratifies and confirms its use and distribution to potential purchasers of the Bonds.

BE IT FURTHER RESOLVED that the City hereby approves the terms of the Bond Resolutions and the sale of the Bonds pursuant thereto, and approves the terms of the Bonds as set forth in said Bond Resolutions and the Indenture (as defined in the Bond Resolutions).

BE IT FURTHER RESOLVED AS FOLLOWS:

(a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit the Purchaser and other participating underwriters in the primary offering of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the Rule), which will enhance the marketability of the Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the Outstanding Bonds. The City is the only obligated person in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. The City has complied in all material respects with any undertaking previously entered into by it under the Rule. If the City fails to comply with any provisions of this section, any person aggrieved thereby, including the Owners of any Outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this section, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this section constitute a default under the Bonds or under any other provision of this resolution. As used in this section, Owner or Bondowner means, in respect of a Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any Beneficial Owner (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, Beneficial Owner means, in respect of a

Bond, any person or entity which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bond (including persons or entities holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

- (1) on or before twelve (12) months after the end of each fiscal year of the City, commencing with the fiscal year ending December 31, 2013, the following financial information and operating data in respect of the City (the Disclosure Information):
 - (A) the audited financial statements of the City for such fiscal year, prepared in accordance with generally accepted accounting principles in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Minnesota law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the fiscal officer of the City; and
 - (B) to the extent not included in the financial statements referred to in paragraph (A) hereof, the information for such fiscal year or for the period most recently available of the type contained in the Official Statement under headings: “VALUATIONS—Current Property Valuations,” “DEBT—Direct Debt” and “—Tax Levies and Collections” and “GENERAL INFORMATION—U.S. Census Data” and “-Employment / Unemployment Data,” which information may be unaudited.

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements. Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been submitted to the Municipal Securities Rulemaking Board (MSRB) through its Electronic Municipal Market Access System (EMMA) or to the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The City shall clearly identify in the Disclosure Information each document so incorporated by reference. If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided,

however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (2) hereof), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations. If the Disclosure Information is changed or this section is amended as permitted by this paragraph (b)(1) or subsection (d), then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

- (2) 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 (each a Material Fact):
 - (A) Principal and interest payment delinquencies;
 - (B) Non-payment related defaults, if material;
 - (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
 - (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
 - (E) Substitution of credit or liquidity providers, or their failure to perform;
 - (F) 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 security, or other material events affecting the tax status of the security;
 - (G) Modifications to rights of security holders, if material;
 - (H) Bond calls, if material, and tender offers;
 - (I) Defeasances;
 - (J) Release, substitution, or sale of property securing repayment of the securities, if material;
 - (K) Rating changes;
 - (L) Bankruptcy, insolvency, receivership or similar event of the obligated person;
 - (M) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, 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; and
 - (N) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

As used herein, for those events that must be reported if material, an event is “material” if it is an event as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public.

Notwithstanding the foregoing sentence, an event is also “material” if it is an event that would be deemed material for purposes of the purchase, holding or sale of a Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

For the purposes of the event identified in (L) hereinabove, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person 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 obligated person, 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 obligated person.

- (3) In a timely manner, notice of the occurrence of any of the following events or conditions:
 - (A) the failure of the City to provide the Disclosure Information required under paragraph (b)(1) at the time specified thereunder;
 - (B) the amendment or supplementing of this section pursuant to subsection (d), together with a copy of such amendment or supplement and any explanation provided by the City under subsection (d)(2);
 - (C) the termination of the obligations of the City under this section pursuant to subsection (d);
 - (D) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information are prepared;
and
 - (E) any change in the fiscal year of the City.

(c) Manner of Disclosure.

- (1) The City agrees to make available to the MSRB through EMMA, in an electronic format as prescribed by the MSRB, the information described in subsection (b).
- (2) All documents provided to the MSRB pursuant to this subsection (c) shall be accompanied by identifying information as prescribed by the MSRB from time to time.

(d) Term; Amendments; Interpretation.

- (1) The covenants of the City in this section shall remain in effect so long as any Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations

of the City under this section shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this section will not cause participating underwriters in the primary offering of the Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.

- (2) This section (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(3) hereof) or the consent of the Owners of any Bonds, by a resolution of this Board filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the City or the type of operations conducted by the City, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this section as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

- (3) This section is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

BE IT FINALLY RESOLVED that this resolution shall be in full force and effect from and after its passage and that a certified copy hereof be provided to the Authority.

Adopted this 17th day of June, 2014.

Mayor

Attest: _____
City Clerk

Upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon the resolution was declared duly passed and adopted.