



NAMAN HOWELL SMITH & LEE PLLC

ATTORNEYS AT LAW

MEMORANDUM
from
Dan Pleitz

(254) 755-4100
Fax (254) 754-6331
E-mail: pleitz@namanhowell.com

TO: Brazos County, Texas

DATE: May 11, 2023

RE: Tax Exempt Loan for Heart of Texas Goodwill Industries, Inc.

Judge Peters:

My name is Dan Pleitz and I am bond lawyer working out of the Waco office of Naman, Howell, Smith & Lee, PLLC. We have been approached by Heart of Texas Goodwill Industries, Inc. ("Goodwill") to assist Goodwill with a \$5,947,000 tax exempt loan. Extraco Banks, N.A. (the "Bank") is making the loan.

The loan is to be tax exempt, and that is the basis for this requested approval.

The loan will be used for a comprehensive rehabilitation and equipping of an existing building located at the access road to 4101 State Highway 6 (South), College Station, Texas 77845. The new Goodwill project will include a Goodwill store and a donation processing area. (I understand that the building being renovated used to be a Harley Davidson store.)

REQUIRED STATE LAW APPROVAL

We are required to obtain approval of the loan and the project from the City of Oglesby, (already obtained) Brazos County, and the City of College Station (College Station is scheduled for approval later this month).

The City of Oglesby has already approved the deal as sponsor of the Oglesby Cultural Facilities Corporation.

Brazos County (and the City of College Station) will each have to approve the deal by reason of a chain of legal requirements as follows:

1. The debt will be issued for Goodwill under the provisions of the Texas Cultural Education Facilities Finance Corporation Act, Chapter 337 of the *Texas Local Government Code*. That chapter allows the issuance of debt for a project found by the Oglesby Corporation to be for the general welfare of the people of this state. Another provision of the Cultural Act provides that cultural facilities include facilities to be for the support of agencies (such as Goodwill) devoted to improving the condition of individuals or groups within a community. Goodwill meets these tests.

2. The Cultural Education Facilities Finance Corporation Act referred to above states in Section 337.012 of the *Local Government Code* that a cultural education facilities finance corporation is to follow the law applicable to "health facilities development corporations" found in Chapter 221 of the *Texas Health and Safety Code*.

3. Under Chapter 221 of the *Health and Safety Code* when Oglesby desires to issue a debt for a facility located outside the Oglesby city limits, we have to obtain the consent of each "sponsoring entity" (as that term is defined in Section 221.003(10) of the *Health and Safety Code*) where the Goodwill project will be located. A sponsoring entity means a municipality, county, or district where the new Goodwill project will be located.

4. Item 3 of this memo means we have to get the consent of the city where the project will be located (College Station), the county where the project will be located (Brazos County) and any district. A "district" is defined under the *Health and Safety Code* as a "hospital district created under state law". We understand that there is no hospital district having jurisdiction over the Goodwill site in College Station/Brazos County.

Boiling all this down, for the Oglesby Corporation to exercise its powers for the Goodwill project we have to gain the consent of Oglesby (where the debt is to be issued), Brazos County, and the City of College Station.

THE LOAN IS IN NO EVENT A LIABILITY OF BRAZOS COUNTY, THE CITY OF COLLEGE STATION, OR THE CITY OF OGLESBY. HEART OF TEXAS GOODWILL INDUSTRIES, INC. IS SOLELY RESPONSIBLE FOR REPAYMENT OF THIS DEBT.

REQUEST FOR APPROVAL

The entire reason for this effort is it is part of the work required to make the loan to Goodwill tax exempt. That loan, from Extraco Bank, will be at a fixed rate of 4.42% fixed for the next 15 years.

I have attached to this memorandum a draft of the proposed order for the consideration of the Commissioners Court.

We look forward to working with you and your staff on this important transaction for Goodwill and thank you for your attention.

You may reach me at the following:

Telephone: 254-755-4100
Email: pleitz@namanhowell.com

Thank you!

Attachments:

Draft Order for the County Commissioners

PS. This has zero impact on the county's ability to issue tax exempt debt. The debt is entirely that of Goodwill. And the debt does not count against a \$10,000,000 per year limit on "bank qualified" tax exempt bonds found in Section 265 of the Internal Revenue Code. That limit is applied to the City of Oglesby, where the new debt is being issued.