

## STAFF REPORT

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**Date:** July 27, 2016

**To:** Mayor and City Council

**Thru:** Andrew Clinger, City Manager

**Subject:** **J.2. Staff Report (For Possible Action): Notice of deficiency in Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable), discussion, and potential direction to the Finance Director to deposit any amount from the Revenue Fund to the Reserve Funds (Cabela's STAR Bonds).**

**From:** Robert Chisel, Director of Finance and Administration

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**City of Reno Strategic Priority Alignment:** Strong Financial Condition

**Summary:** The sales tax revenues from the Cabela's STAR bond district (formed on September 27, 2006) are insufficient for the December 2015 and June 2016 payments by \$2,663,624.54 to meet the debt service payments for the 2007A and 2007B Sales Tax Increment Bonds. The Bond ordinance requires disclosure to City Council that reserves have been used to make the payments. This is not considered a default. No action by City Council is required by bond ordinance. Staff recommends the Council accept the report.

**Previous Council Action:**

January 27, 2016 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

August 26, 2015 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

January 28, 2015 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

August 27, 2014 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

January 15, 2014 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

August 14, 2013 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

February 13, 2013 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

July 11, 2012 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

January 18, 2012 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

August 24, 2011 – City Council accepted staff report on notice of deficiency in sales tax revenue and use of Reserve Funds for the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and the City of Reno, Nevada, Sales Tax Increment Bonds, Series 2007B (Taxable).

October 10, 2007 – City Council adopted ordinance authorizing the issuance of the City Of Reno, Nevada, Sales Tax Increment Bonds, Series 2007A (Tax-Exempt) and Series 2007B (Taxable).

September 27, 2006 – City Council adopted Bill No. 6428 Ordinance creating the City of Reno, Nevada, Tourism Improvement District No. 2006-1.

**Discussion:** The sales tax revenues from the Cabela’s STAR bond district that was formed on September 27, 2006, are insufficient to meet the current debt service payments for the 2007A and 2007B Sales Tax Increment Bonds. Sales tax revenues for the Cabela’s STAR bond district are derived from activity by the Reno Cabela’s store. For the December 29, 2015 and the June 29, 2016 payment all the bond reserves have been transferred for prior payments, leaving no money in reserves. Below is the outstanding debt service and the total shortage.

Series	Debt	Debt	Bond Fund Available	Total Shortage
	Service (12/29/15)	Service (6/29/16)		
2007A	\$593,500.00	\$597,100.00	\$76,434.52	\$1,114,165.48
2007B	\$822,362.50	\$822,287.50	\$95,190.94	\$1,549,459.06
				<u>\$2,663,624.54</u>

Pursuant to the bond ordinance, the bond trustee has been notified. The bond ordinance also requires disclosure to City Council that the reserves are being used to make payments, and the City Council shall determine whether to direct the Finance Director to deposit any amount from the Revenue Fund to maintain the Reserve. However, there is no amount available from the Revenue Fund to replenish the reserve, therefore no action is required.

This is not considered a default. The bond ordinance specifically provides that failure to pay debt service and monthly set aside payments do not constitute a default:

Bond Ordinance:

Section 30. No Default for Failure to Make Payments. The failure to make payments of any amounts due under the Bonds, including the failure to maintain the Reserve Fund at the Minimum Reserve Requirement, because of any insufficiency in the amount of Pledged Revenues pledged pursuant to NRS 271A.070 to make payments on the Bonds shall be deemed not to constitute a default on the Bonds. The Bonds are not secured by or payable from the general fund of the City, the power of the City to levy ad valorem property taxes or any source (other than the Pledged Revenues and the amounts on deposit in the Bond Fund and the Reserve Fund) or any combination thereof. No Bond may ever become a general obligation of the City or a charge against its general credit or taxing powers nor may any Bond become a debt of the City for purposes of any limitation on indebtedness.

The Nevada Revised Statutes also provide that failure to pay debt service and monthly set aside payments do not constitute a default:

NRS 271A.120(3):

[...] A failure to make payments of any amounts due:

- (a) With respect to any bonds or notes issued pursuant to subsection 1; or
- (b) Under any agreements entered into pursuant to subsection 1, because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

**Financial Implications:** Legal implications are set forth above in the discussion. Review has been completed for compliance with NRS.

**Legal Implications:** Legal review completed for compliance with City procedures and Nevada Law.

**Recommendation:** Staff recommends the City Council accept the report.

**Proposed Motion:** I move to approve staff recommendation.