

Harrisburg City Council
Unapproved Meeting Minutes

The regular meeting of the City Council was called to order on August 2, 2022, at 6:00 pm, with Mayor Wenck presiding. Council members present were Kevin Maxwell, Matt Westerman, Chris Kindt and Tom Anez. Also present from the city were Andrew Pietrus, Jill Johnke, Deb Harris, Toby Huizenga and Adam Martin. A list of all others in attendance is on file at the city office.

Pledge of Allegiance was recited.

Public Comment: No Comment

Consent Agenda: Maxwell requested to move item 6 on consent agenda to Business Item # 8. Motion Maxwell, seconded Kindt to approve the consent agenda as amended.

1. Approved Agenda – Declaration of any Potential Conflict of Interest
2. Approved July 19, 2022 City Council Meeting Minutes
3. Approved August 2, 2022 Claims
4. Approved and authorized Mayor to sign Construction change order #2 Hugh Robinson Park playground improvements (\$10,000)
5. Approved \$.50 increase for Nolan Meyer for OpCert Exam.
6. Approved painting of crosswalks
7. Approved disability awareness commission appointments-Jenna Douglas, Jim Nielsen & Codi Nincehelter.

Upon roll call, all members present in favor.

A & B Business-Rentals (Streets Sewer Water Parks) \$119.50; Ace Hardware-Supplies/Materials Repairs/Maintenance (Streets Sewer Water Parks) \$1,017.09; Aerzen-Repairs/Maintenance (Sewer) \$182.24; AFLAC-Withholdings \$504.54; Alberts Electric LLC-Repairs/Maintenance (Gov't Bld) \$690.65; All Seasons-Professional Service/Fee (Code Enforcement) \$4,680.00; American Planning Association-Professional Service/Fee (Planner) \$368.00; American Engineering Testing-Professional Service/Fee (Sewer) \$2,011.00; Backhaus Excavation-Repairs/Maintenance (Water) \$2,250.00; Bumblebee Gibson-Repairs/Maintenance (Streets Sewer Water Parks) \$1,205.00; Capfirst Equipment Finance-Principal/Interest (Sewer) \$64,676.00; City of Sibley-Water for Resale (Water) \$11,392.50; City of Sioux Falls-Professional Service/Fee (Water) \$348.00; Core & Main-Supplies/Materials/Repairs/Maintenance (Sewer Water) \$6,485.61; DANR-Professional Service/Fee (Water) \$120.00; Dept of Revenue-Professional Service/Fee (Streets Sewer Water Parks) \$15.00; Hach Company-Repairs/Maintenance (Sewer) \$923.00; Home Builders Assoc-Professional Service/Fee (Planner) \$500.00; Home Definition-Professional Service/Fee (Gov't Bld) \$25.00; Hutman-Professional Service/Fee (Finance) \$217.50; Innovative Office Solutions-Supplies/Materials (Streets Sewer Water Parks) \$342.73; IIMC-Professional Service/Fee (Finance) \$175.00; Interstate Power Systems-Rentals (Economic Development Promo) \$1,160.00; IWORQ-Professional Service/Fee (Gov't Bld) \$3,000.00; Lacey's-Rentals (Parks) \$1,670.00; Lewis & Clark-Water for Resale (Water) \$14,226.40; Lincoln Cty Register of Deeds-Professional Service/Fee/Supplies/Materials (Planner) \$585.00; Lincoln Cty Rural Water-Water for Resale (Water) \$1,908.08; Marco-Rentals (Streets Sewer Water Parks) \$165.65; Menards East-Supplies/Materials (Parks) \$465.30; Novak Sanitary-Utilities (Gov't Bld) \$185.14; Optilegra-Group Insurance \$169.26; Pfeifer Implement-Repairs/Maintenance (Streets Sewer Water Parks) \$181.31; Sam's Club-Supplies/Materials (Library) \$107.06; Sanitation Products-Repairs/Maintenance (Streets Sewer) \$382.00; SD Supplemental Retirement-SDRS Withholdings \$100.00; Sioux Falls Humane Society-Professional Service/Fee (Animal Control) \$191.18; Sioux Falls Networks-Machinery/Equipment (Planner) \$1,040.00; Sioux International-Repairs/Maintenance (Streets Sewer Water Parks) \$831.68; SD Assoc Rural Water-

Travel/Conference (Water) \$400.00; Southeastern Electric Coop-Supplies/Materials (Streets) \$200.00; Staples-Supplies/Materials (Finance Planner) \$131.76; Toshiba Financial-Rentals (Finance) \$258.43; Traffic Solutions-Machinery/Equipment (Streets Sewer Water Parks) \$18,921.00; United States Post Office-Rentals (Library) \$10.00; Verizon Wireless-Utilities (Gov't Bld) \$360.13; Wealth Management-Principal/Interest (Water) \$29,926.63; Wealth Management-Principal/Interest (Sewer) \$278,664.08; Wealth Management-Principal/Interest (Water) \$22,053.69; Wealth Management-Principal/Interest (Storm Water Drainage) \$24,342.43; Wealth Management-Principal/Interest (Sewer) \$11,373.07; Wealth Management-Principal/Interest (Sewer) \$33,268.42; Wellmark Blue Cross Blue Shield-Group Insurance (All Dept's) \$12,473.69; White Glove Cleaning-Utilities (Gov't Bld) \$113.75

Business Item 1. Second reading of Ordinance 2022-11 to rezone the east 850' of tract 11 of the Industrial Park Addition from GB General Business District to HI Heavy Industrial District. Motion Kindt, seconded Anez to approve Ordinance 2022-11 to rezone the East 850' of Tract 11 of the Industrial Park Addition from GB General District to HI Heavy Industrial District. Upon roll call; all members present in favor

Business Item 2. Consider HBA's request for \$20,000 2022 Sponsorship. Motion Kindt, seconded Anez to table

Business Item 3. Consider construction cost estimate and notice to bidders for 272nd street road improvements. Discussion with neighboring property owners including Sara and Tom Nordstrom and Denny Sisson. Motion Maxwell, seconded Anez to approve Construction cost estimates and notice to bidders for 272nd street road improvements. Upon roll call, all members present in favor.

Business Item 4. Resolution 2022-11 CWSRF surcharge. Motion Maxwell, seconded Anez to approve Resolution 2022-11 CWSRF Surcharge. Upon roll call, all members present in favor.

RESOLUTION NO. 2022-11 CITY OF HARRISBURG

A RESOLUTION PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO WASTEWATER SYSTEM, FOR PAYMENT OF SURCHARGE REVENUE BOND AND YEARLY REVIEW OF RATE

1. Surcharge for Bond Issue. There shall be charged a monthly surcharge for the services provided by the improvement financed by the Wastewater Surcharge Revenue Bond Series 2022. The surcharge shall be segregated from other revenues of the utility and shall be used for the payment of the revenue bonds.
2. Rates and collection. The City does hereby establish the special charge or surcharge payable by each customer of its System who receives or benefits from the services of the Project. Such charge or surcharge shall be set at a level which will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Wastewater Surcharge Revenue Bond Series 2022 and all other payments as may be required under the loan agreement and Wastewater Surcharge Revenue Bond Series 2021.
3. Wastewater Surcharge Revenue Bond Series 2022 Surcharge. The following wastewater debt service surcharge shall be applicable to all customers served whether in or out of the city or whether retail or sales or resale:

Wastewater Surcharge Revenue Bond Series 2022 surcharge for payment of State Revolving Fund loan C461065-08: \$15.00 per user, per month.

This surcharge shall become effective January 1, 2023.

This surcharge shall remain in effect until such time as the revenue bond is discharged. The surcharge shall be collected at the same time as other charges of the wastewater system. The surcharge is found to be equitable for the services provided by the improvement.

4. Segregation. The debt service surcharge shall be segregated from other income of the Wastewater System in a separate account and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the Wastewater Surcharge Revenue Bond Series 2022.
5. Yearly review. The amount of the surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by city personal and administratively adjusted, upwards or downwards, pursuant to SDCL § 9-40-15 to such amounts as may be necessary to pay principal, interest, and other charges as may become due and owing under the Wastewater Surcharge Revenue Bond Series 2022.
6. Billing and Accounting. The surcharge shall be included in the monthly user wastewater bill. Nothing contained herein requires the surcharge be indicated on the billing, however, the surcharge segregation shall be indicated on the books of the City.
7. Surcharge not to create constitutional indebtedness. The charges provided herein are for the purpose of paying the Wastewater Surcharge Revenue Bond Series 2022 of the City which do not constitute indebtedness within the meaning of Article XIII, Section 4 of the South Dakota Constitution.
8. Severability. If any one or more of the provisions of the shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

Adopted at City of Harrisburg, South Dakota, this 2nd day of August 2022.

APPROVED:

Derick Wenck, Mayor
City of Harrisburg

Attest:

Deb Harris, Finance Officer
City of Harrisburg

Business Item 5. Resolution 2022-12 Harrisburg Wastewater SRF. Motion Kindt, seconded Maxwell to approve Resolution 2022-12 Harrisburg Wastewater SRF. Upon roll call vote; all members present in favor.

RESOLUTION NO. 2022-12

RESOLUTION GIVING APPROVAL TO THE ISSUANCE BY THE CITY OF HARRISBURG, SOUTH DAKOTA, OF ITS WASTEWATER SURCHARGE REVENUE BOND, SERIES 2022, IN AN AMOUNT NOT EXCEEDING \$8,393,896, TO FINANCE, DIRECTLY AND INDIRECTLY, CONSTRUCTION OF IMPROVEMENTS TO THE WASTEWATER SYSTEM OF THE CITY; APPROVING THE FORM OF LOAN AGREEMENT AND REVENUE BOND; AUTHORIZING THE SALE OF SAID REVENUE BOND; PLEDGING WASTEWATER SURCHARGE REVENUES FOR SERVICING DEBT ISSUED HEREUNDER; AND THE MANNER OF EXECUTION AND ISSUANCE OF SAID BOND.

WHEREAS, the City of Harrisburg, South Dakota, South Dakota (the "City") is authorized pursuant to SDCL §9-40-1, et seq., to construct, operate and improve sanitary sewers and sewage and solid waste disposal plants and systems, and pursuant to SDCL Chapters SDCL 9-40 and 6-8B (the "Acts") is authorized to issue bonds to defray the cost of such extensions, additions; and improvements; and

WHEREAS, the City Council of the City has determined that it is necessary and in the best interests of the City to make certain improvements to the City's wastewater system (the "Wastewater System"), such improvements being more fully described in *Exhibit A* attached hereto (the "Project"), and to finance \$8,393,896 of the costs thereof through the South Dakota Clean Water State Revolving Fund Loan Program administered by the South Dakota Conservancy District ("SDCD") pursuant to SDCL 46A-1-49; and

WHEREAS, the City has determined that it is necessary and appropriate to issue its Wastewater Surcharge Revenue Bond, Series 2022 in the amount of \$8,393,896, as more fully described herein (the "Series 2022 Bond" or the "Bond") to the SDCD pursuant to the South Dakota Clean Water State Revolving Fund Loan Program to finance a portion of the costs of the Project; and

WHEREAS, pursuant to the Acts, including specifically SDCL 9-40-15, and Resolution No. 2022-11, the City has adopted a surcharge (the "Surcharge") in order to repay the principal of and interest on the Series 2022 Bond; and

WHEREAS, the City Council has determined that the issuance of the Series 2022 Bond would be in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisburg, South Dakota, South Dakota, as follows:

ARTICLE I: THE BOND

Section 1.01 Findings. It is hereby found, determined and declared that:

(a) The City is a political subdivision of the State of South Dakota and a body corporate and politic.

(b) The City finds and determines that, without making the improvements included in the Project, the Wastewater System would pose a health hazard to the residents of the City, and the lands adjacent thereto.

(c) As authorized by this Resolution and the Act, the City has determined that it is necessary and desirable to issue the Series 2022 Bond in a principal amount not to exceed

\$8,393,896. The proceeds of the Series 2022 Bond are to be used (i) to pay a portion of the costs of the Project and (ii) to pay the costs of issuance of the Series 2022 Bond.

(d) The Bond will be issued, sold and delivered by the City to the SDCD pursuant to the terms of the Loan Agreement, as hereinafter defined.

Section 1.02 Authorization and Execution of Bond: Terms. The City shall issue one fully registered Bond in the principal amount not to exceed the sum of \$8,393,896 (as defined in the Loan Agreement, the "Committed Amount"). The Bond shall be designated "Wastewater Surcharge Revenue Bond, Series 2022," shall be numbered R-1 and shall be dated as of the date of its issuance. The Bond shall be payable in one hundred twenty (120) quarterly installments over thirty (30) years commencing as set forth in the Loan Agreement, as herein defined.

The Bond shall bear interest at the rate of 1.875% per annum pursuant to the Loan Agreement. In addition, as required by the Loan Agreement, the City will pay the holder of the Bond an administrative expense surcharge on the outstanding principal amount of the Bond at a rate of 0.25% per annum. The Series 2022 Bond is issued under the authority of Chapters 9-40 and 6-8B of the South Dakota Codified Laws, as amended.

The Bond shall be signed by the manual signatures of the Mayor and Finance Officer, and sealed with the corporate seal of the City, or a facsimile thereof. The approval hereby given to the Bond includes an approval of such additional details therein as may be necessary and appropriate and approved by the City Attorney prior to the execution thereof. The execution of the Bond by the Mayor and Finance Officer shall be conclusive evidence of the approval of the Bond in accordance with the terms hereof.

Section 1.03 Authorization of Financing Documents. The documents required to accomplish the issuance of the Bond include the following:

(a) the Revenue Obligation Loan Agreement between the SDCD and the City (the "Loan Agreement" herein), and pursuant thereto to pledge the surcharge revenues to secure the payment of the City's obligations thereunder;

(b) the Series 2022 Bond; and

(c) Such other documents, agreements or instruments as may be necessary to make covenants and recite facts required to demonstrate the validity and enforceability of Series 2022 Bond under the laws of the State of South Dakota and to assure the exclusion of the interest thereon from the gross income of the owners of the Series 2022 Bond under the Code and to effectuate the terms and intent of this Resolution.

The execution and delivery of such documents is hereby authorized, approved and confirmed, and the Mayor and Finance Officer shall be and they are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content presented to the City Council on this date (the terms of which are incorporated herein by this reference), with such changes as Bond Counsel deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are here further authorized and directed to implement and perform the covenants and obligations of the City as set forth in or required by the Loan Agreement.

Section 1.04 Form of Bond. The Series 2022 Bond shall be in substantially the form set forth on Appendix B to the Loan Agreement.

Section 1.05 Sale of Bond. The sale of the Series 2022 Bond to the SDCD for the purchase price of \$8,393,896 plus interest accrued to the date of delivery of the Bond, is ratified and confirmed; and the officers of the City are authorized and directed to do any and all acts necessary to conclude delivery of the

Bond to said purchaser, upon receipt of the purchase price, as soon after the effective date of this Resolution as is convenient.

Section 1.06 Application of Bond Proceeds. Proceeds of the Bond shall be deposited in the manner provided in the Loan Agreement.

Section 1.07 Inspection of Documents. All documents referred to herein shall be available for public inspection in the office of the City Finance Officer during regular business hours.

ARTICLE II: SECURITY FOR THE BOND

Section 2.01 Pledge of Wastewater Surcharge Revenues. Pursuant to SDCL 9-40-15, the City hereby irrevocably pledges to the SDCD all revenues received from the Surcharge (the "Pledged Revenues") in order to secure the City's obligation to pay all amounts payable under the Loan Agreement and the Series 2022 Bond. The City shall set aside and segregate in a separate account on a monthly basis such Pledged Revenues for payment of the principal and interest on the Series 2022 Bond.

Section 2.02 Deposit of Pledged Revenues. All moneys in the account provided for above shall be deposited with such financial institution as shall be designated from time to time by the City.

ARTICLE III: OTHER COVENANTS

Section 3.01 Compliance With Laws. The City hereby covenants and agrees with the holder or holders, from time to time of the Series 2022 Bond, that it will punctually perform all duties with reference to the Series 2022 Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

Section 3.02 Other Covenants. The City agrees and covenants that it will purchase the improvements included in the Project. The City will not sell, lease, mortgage or in any other manner dispose of the Project, or any substantial part thereof, until all Series 2022 Bond payable shall be paid in full. The City covenants and agrees with the owners of the Series 2022 Bond that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement.

Section 3.03 Additional Bonds. Additional bonds payable from the Pledged Revenues may be issued on parity with the Series 2022 Bond, but only as permitted in the Loan Agreement and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the first lien of, such additional parity bonds. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien for the Series 2022 Bond but only as permitted by the Loan Agreement.

ARTICLE IV: MISCELLANEOUS

Section 4.01 Limited Obligations. The Series 2022 Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Pledged Revenues, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Series 2022 Bond and shall be used for no other purpose than to pay the principal of and interest on the such Bond, except as may be otherwise expressly authorized in the Loan Agreement. The Series 2022 Bond shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

Section 4.02 Severability. If any section, paragraph, clause or provision of this Resolution or the Loan Agreement shall be held invalid, the invalidity of such section, paragraph, clause or provision

shall not affect any of the other provisions of this Resolution or the Loan Agreement. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City the Series 2022 Bond any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Section 4.03 Retention of Bond Counsel. The City hereby retains the firm of Cutler Law Firm, LLP, Sioux Falls, South Dakota, to act as bond counsel with respect to the Series 2022 Bond.

Section 4.04 Effective Date. This Resolution, after its final passage, shall be recorded in a book kept for that purpose, shall be authenticated by the signature of the Mayor and Finance Officer, shall be published in the City's officially designated newspaper, and shall be effective on the 20th day following such publication. After becoming effective, this Resolution shall be irrevocable until the Bond issued hereunder shall be paid in full, except that prior to issuance of the Series 2022 Bond, this Resolution may be amended at any time by adoption of an administrative resolution or ordinance.

Adopted at City of Harrisburg, South Dakota, this 2nd day of August, 2022.

APPROVED:

Derick Wenck, Mayor
City of Harrisburg

Attest:

Deb Harris, Finance Officer
City of Harrisburg

Business Item 6. Resolution 2022-13 DWSRF Surcharge. Motion Maxwell, seconded Anez to approve Resolution 2022-13 DWSRF Surcharge. Upon roll call vote; all present members in favor.

**RESOLUTION NO. 2022-13
CITY OF HARRISBURG**

A RESOLUTION PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO DRINKING WATER SYSTEM, FOR PAYMENT OF SURCHARGE REVENUE BOND AND YEARLY REVIEW OF RATE

9. Surcharge for Bond Issue. There shall be charged a monthly surcharge for the services provided by the improvement financed by the Drinking Water Surcharge Revenue Bond Series 2022. The surcharge shall be segregated from other revenues of the utility and shall be used for the payment of the revenue bonds.
10. Rates and collection. The City does hereby establish the special charge or surcharge payable by each customer of its System who receives or benefits from the services of the Project. Such charge or surcharge shall be set at a level which will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Drinking Water Surcharge Revenue Bond Series 2022 and all other payments as may be required under the loan agreement and Drinking Water Surcharge Revenue Bond Series 2022.
11. Drinking Water Surcharge Revenue Bond Series 2022 Surcharge. The following drinking water debt service surcharge shall be applicable to all customers served whether in or out of the city or whether retail or sales or resale:

Drinking Water Surcharge Revenue Bond Series 2022 surcharge for payment of State Revolving Fund loan C462065-04: \$11.25 per user, per month.

This surcharge shall become effective January 1, 2023.

This surcharge shall remain in effect until such time as the revenue bonds are discharged. The surcharge shall be collected at the same time as other charges of the drinking water system. The surcharge is found to be equitable for the services provided by the improvement.

12. Segregation. The debt service surcharge shall be segregated from other income of the Drinking Water System in a separate account and is pledged to the South Dakota Conservancy District for the payment of Drinking Water Surcharge Revenue Bond Series 2022.
13. Yearly review. The amount of the surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by city personal and administratively adjusted, upwards or downwards, pursuant to SDCL § 9-40-15 to such amounts as may be necessary to pay principal, interest, and other charges as may become due and owing under the Drinking Water Surcharge Revenue Bond Series 2022.
14. Billing and Accounting. The surcharge shall be included in the monthly user drinking water bill. Nothing contained herein requires the surcharge be indicated on the billing, however, the surcharge segregation shall be indicated on the books of the City.
15. Surcharge not to create constitutional indebtedness. The charges provided herein are for the purpose of paying the Drinking Water Surcharge Revenue Bond Series 2022 of the City which do not constitute indebtedness within the meaning of Article XIII, Section 4 of the South Dakota Constitution.
16. Severability. If any one or more of the provisions of the shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

Adopted at City of Harrisburg, South Dakota, this 2nd day of August 2022.

APPROVED:

Derick Wenck, Mayor
City of Harrisburg

Attest:

Deb Harris, Finance Officer
City of Harrisburg

Business Item # 7 Resolution 2022-14 Harrisburg Drinking Water SRF. Motion Anez, seconded Maxwell to approve Resolution 2022-14 Harrisburg Drinking Water SRF. Upon roll call, all members present in favor.

RESOLUTION NO. 2022-14

RESOLUTION GIVING APPROVAL TO THE ISSUANCE BY THE CITY OF HARRISBURG, SOUTH DAKOTA, OF ITS DRINKING WATER SURCHARGE REVENUE BOND, SERIES 2022, IN AN AMOUNT NOT EXCEEDING \$6,305,000, TO FINANCE, DIRECTLY AND INDIRECTLY, CONSTRUCTION OF IMPROVEMENTS TO THE DRINKING WATER SYSTEM OF THE CITY; APPROVING THE FORM OF LOAN AGREEMENT AND REVENUE BOND; AUTHORIZING THE SALE OF SAID REVENUE BOND; PLEDGING DRINKING WATER SURCHARGE REVENUES FOR SERVICING DEBT ISSUED HEREUNDER; AND THE MANNER OF EXECUTION AND ISSUANCE OF SAID BOND.

WHEREAS, the City of Harrisburg, South Dakota, South Dakota (the "City") is authorized pursuant to SDCL §9-40-1, et seq., to construct, operate and improve municipal drinking water systems, and pursuant to SDCL Chapters SDCL 9-40 and 6-8B (the "Acts") is authorized to issue bonds to defray the cost of such extensions, additions; and improvements; and

WHEREAS, the City Council of the City has determined that it is necessary and in the best interests of the City to make certain improvements to the City's drinking water system (the "Drinking Water System"), such improvements being more fully described in *Exhibit A* attached hereto (the "Project"), and to finance \$6,305,000 of the costs thereof through the South Dakota Drinking Water State Revolving Fund Loan Program administered by the South Dakota Conservancy District ("SDCD") pursuant to SDCL 46A-1-49; and

WHEREAS, the City has determined that it is necessary and appropriate to issue its Drinking Water Surcharge Revenue Bond, Series 2022 in the amount of \$6,305,000, as more fully described herein (the "Series 2022 Bond" or the "Bond") to the SDCD pursuant to the South Dakota Drinking Water State Revolving Fund Loan Program to finance a portion of the costs of the Project; and

WHEREAS, pursuant to the Acts, including specifically SDCL 9-40-15, and Resolution No. 2022-13, the City has adopted a surcharge (the "Surcharge") in order to repay the principal of and interest on the Series 2022 Bond; and

WHEREAS, the City Council has determined that the issuance of the Series 2022 Bond would be in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisburg, South Dakota, South Dakota, as follows:

ARTICLE I: THE BOND

Section 1.01 Findings. It is hereby found, determined and declared that:

(a) The City is a political subdivision of the State of South Dakota and a body corporate and politic.

(b) The City finds and determines that, without making the improvements included in the Project, the Drinking Water System would pose a health hazard to the residents of the City, and the lands adjacent thereto.

(c) As authorized by this Resolution and the Act, the City has determined that it is necessary and desirable to issue the Series 2022 Bond in a principal amount not to exceed \$6,305,000. The proceeds of the Series 2022 Bond are to be used (i) to pay a portion of the costs of the Project and (ii) to pay the costs of issuance of the Series 2022 Bond.

(d) The Bond will be issued, sold and delivered by the City to the SDCD pursuant to the terms of the Loan Agreement, as hereinafter defined.

Section 1.02 Authorization and Execution of Bond: Terms. The City shall issue one fully registered Bond in the principal amount not to exceed the sum of \$6,305,000 (as defined in the Loan Agreement, the "Committed Amount"). The Bond shall be designated "Drinking Water Surcharge Revenue Bond, Series 2022," shall be numbered R-1 and shall be dated as of the date of its issuance. The Bond shall be payable in one hundred twenty (120) quarterly installments over thirty (30) years commencing as set forth in the Loan Agreement, as herein defined.

The Bond shall bear interest at the rate of 1.875% per annum pursuant to the Loan Agreement. In addition, as required by the Loan Agreement, the City will pay the holder of the Bond an administrative expense surcharge on the outstanding principal amount of the Bond at a rate of 0.25% per annum. The Series 2022 Bond is issued under the authority of Chapters 9-40 and 6-8B of the South Dakota Codified Laws, as amended.

The Bond shall be signed by the manual signatures of the Mayor and Finance Officer, and sealed with the corporate seal of the City, or a facsimile thereof. The approval hereby given to the Bond includes an approval of such additional details therein as may be necessary and appropriate and approved by the City Attorney prior to the execution thereof. The execution of the Bond by the Mayor and Finance Officer shall be conclusive evidence of the approval of the Bond in accordance with the terms hereof.

Section 1.03 Authorization of Financing Documents. The documents required to accomplish the issuance of the Bond include the following:

(a) the Revenue Obligation Loan Agreement between the SDCD and the City (the "Loan Agreement" herein), and pursuant thereto to pledge the surcharge revenues to secure the payment of the City's obligations thereunder;

(b) the Series 2022 Bond; and

(c) Such other documents, agreements or instruments as may be necessary to make covenants and recite facts required to demonstrate the validity and enforceability of Series 2022 Bond under the laws of the State of South Dakota and to assure the exclusion of the interest thereon from the gross income of the owners of the Series 2022 Bond under the Code and to effectuate the terms and intent of this Resolution.

The execution and delivery of such documents is hereby authorized, approved and confirmed, and the Mayor and Finance Officer shall be and they are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content presented to the City Council on this date (the terms of which are incorporated herein by this reference), with such changes as Bond Counsel deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are here further authorized and directed to implement and perform the covenants and obligations of the City as set forth in or required by the Loan Agreement.

Section 1.04 Form of Bond. The Series 2022 Bond shall be in substantially the form set forth on Appendix B to the Loan Agreement.

Section 1.05 Sale of Bond. The sale of the Series 2022 Bond to the SDCD for the purchase price of \$6,305,000 plus interest accrued to the date of delivery of the Bond, is ratified and confirmed; and the officers of the City are authorized and directed to do any and all acts necessary to conclude delivery of the Bond to said purchaser, upon receipt of the purchase price, as soon after the effective date of this Resolution as is convenient.

Section 1.06 Application of Bond Proceeds. Proceeds of the Bond shall be deposited in the manner provided in the Loan Agreement.

Section 1.07 Inspection of Documents. All documents referred to herein shall be available for public inspection in the office of the City Finance Officer during regular business hours.

ARTICLE II: SECURITY FOR THE BOND

Section 2.01 Pledge of Drinking Water Surcharge Revenues. Pursuant to SDCL 9-40-15, the City hereby irrevocably pledges to the SDCD all revenues received from the Surcharge (the "Pledged Revenues") in order to secure the City's obligation to pay all amounts payable under the Loan Agreement and the Series 2022 Bond. The City shall set aside and segregate in a separate account on a monthly basis such Pledged Revenues for payment of the principal and interest on the Series 2022 Bond.

Section 2.02 Deposit of Pledged Revenues. All moneys in the account provided for above shall be deposited with such financial institution as shall be designated from time to time by the City.

ARTICLE III: OTHER COVENANTS

Section 3.01 Compliance With Laws. The City hereby covenants and agrees with the holder or holders, from time to time of the Series 2022 Bond, that it will punctually perform all duties with reference to the Series 2022 Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

Section 3.02 Other Covenants. The City agrees and covenants that it will purchase the improvements included in the Project. The City will not sell, lease, mortgage or in any other manner dispose of the Project, or any substantial part thereof, until all Series 2022 Bond payable shall be paid in full. The City covenants and agrees with the owners of the Series 2022 Bond that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement.

Section 3.03 Additional Bonds. Additional bonds payable from the Pledged Revenues may be issued on parity with the Series 2022 Bond, but only as permitted in the Loan Agreement and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the first lien of, such additional parity bonds. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien for the Series 2022 Bond but only as permitted by the Loan Agreement.

ARTICLE IV: MISCELLANEOUS

Section 4.01 Limited Obligations. The Series 2022 Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Pledged Revenues, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Series 2022 Bond and shall be used for no other purpose than to pay the principal of and interest on the such Bond, except as may be otherwise expressly authorized in the Loan Agreement. The Series 2022 Bond shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

Section 4.02 Severability. If any section, paragraph, clause or provision of this Resolution or the Loan Agreement shall be held invalid, the invalidity of such section, paragraph, clause or provision

shall not affect any of the other provisions of this Resolution or the Loan Agreement. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City the Series 2022 Bond any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Section 4.03 Retention of Bond Counsel. The City hereby retains the firm of Cutler Law Firm, LLP, Sioux Falls, South Dakota, to act as bond counsel with respect to the Series 2022 Bond.

Section 4.04 Effective Date. This Resolution, after its final passage, shall be recorded in a book kept for that purpose, shall be authenticated by the signature of the Mayor and Finance Officer, shall be published in the City's officially designated newspaper, and shall be effective on the 20th day following such publication. After becoming effective, this Resolution shall be irrevocable until the Bond issued hereunder shall be paid in full, except that prior to issuance of the Series 2022 Bond, this Resolution may be amended at any time by adoption of an administrative resolution or ordinance.

Adopted at City of Harrisburg, South Dakota, this 2nd day of August, 2022.

APPROVED:

Derick Wenck, Mayor
City of Harrisburg

Attest:

Deb Harris, Finance Officer
City of Harrisburg

Business Item #8. Motion Maxwell, seconded Kindt to approve the painting crosswalk project with Traffic Solutions up to \$17,400. Upon roll call, all members present in favor.

Jon Brown gave the Engineers Report

With no further business, a motion was made by Maxwell, seconded Kindt to adjourn the city council meeting at 7:02pm. Upon roll call, all members present in favor.

The next regular meeting of the Harrisburg City Council will be held at 6:00 pm on Tuesday, August 16, 2022.

Submitted by Jill Johnke, Deputy Finance Officer

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