

RESOLUTION NO. 2019-09

RESOLUTION OF CITY OF HARRISBURG, SOUTH DAKOTA TO APPROVE A SURCHARGE APPLICABLE TO USERS OF THE CITY'S WASTEWATER SYSTEM IN ORDER TO REPAY A SURCHARGE REVENUE BOND IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$24,487,000.

WHEREAS, the City of Harrisburg, South Dakota (the "City") has determined that it is necessary to construct and equip a new mechanical wastewater treatment facility and other improvements (the "Improvements") to the City's wastewater system (the "System"); and

WHEREAS, in order to pay for a portion of the cost of the Improvements, including engineering costs, legal and financing costs, and other related costs, the City Council has determined that it is necessary and advisable for the City to issue its Wastewater Surcharge Revenue Bond, Series 2019 (Clean Water SRF loan C461065-07), in an amount not to exceed \$24,487,000 (the "Bond") in connection with a loan to be made under a Revenue Obligation Loan Agreement to be entered into by the City with the South Dakota Conservancy District (the "Loan Agreement") and a resolution to be adopted by the City authorizing the issuance of the Bond; and

WHEREAS, the City has proposed to adopt a surcharge pursuant to SDCL 9-40-15 on all users of the System and to pledge the receipts therefrom for the security and repayment of the principal of and interest on the Bond.

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

1. Surcharge and Rate. The City does hereby establish, in addition to its normal wastewater system user fee, a special charge or surcharge in the amount set forth on Exhibit A (the "Surcharge") on all users of the System.

The Surcharge will be imposed beginning July 1, 2021. The Surcharge amount is subject to adjustment as follows:

(a) The City Council will adjust the amount of the Surcharge if it determines that final project costs and federal or state assistance allows the City to reduce the principal amount of the Bond.

(b) The City Council will review the Surcharge rate annually, and adjust it upwards or downwards to a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Bond over a period of 30 years, together with interest thereon at an interest rate of 1.75% per annum plus an administrative expense surcharge of .75% in accordance with the Loan Agreement.

2. Surcharge Found to be Equitable. It has been found that all users of the System benefit from the Improvements paid for in part from the proceeds of the Bond, and that the

Surcharge is found to be equitable for the services provided by such improvements. Therefore, the Surcharge will be applicable to all users of the System, current and future, whether in or out of the City.

3. Segregation of Surcharge Receipts. The revenues collected from the Surcharge will be segregated from all other funds of the City, and will be pledged to secure the Bond. The Bond will be payable solely from such segregated revenues, and not from the general revenues of the System. Until adequate provision has been made for the debt service on the Bond, moneys in the segregated account may not be used for any purpose other than for the repayment of the Bond. The City in its discretion may from time to time advance moneys from the general revenues of the System to make payments on the Bond, but any moneys so advanced will be repaid from Surcharge collections within one year of the date of such advance.

4. Duration of Surcharge; Automatic Repeal. The Surcharge shall remain in effect until such time as the Bond is discharged or defeased. The initial Surcharge shall be collected at the same time as other charges of the System. Upon payment of all principal and interest on the Bond or any refunding bonds, or until the same have been defeased, the Surcharge will automatically be repealed without any further action of the Council.

5. Billing and Accounting. The Surcharge will be included in the monthly bill. Nothing contained herein requires the Surcharge to be indicated on the billing, but the Surcharge segregation must be specifically reflected in the books of the City.

6. Severability. If any one or more of the provisions of this Resolution is held invalid, illegal, or unenforceable in any respect by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision hereof.

7. Surcharge Bond Not to Create Constitutional Indebtedness. The Surcharge provided for herein is for the purpose of paying the Bond, which will not constitute indebtedness within the meaning of the South Dakota Constitutional Chapter XIII, Section 4.

Dated this 6th day of May 2019.

APPROVED:

Julie Burke- Van Luvanee  
Mayor

ATTEST:

Mary McClung  
Finance Officer

Publication: May 16, 2019  
Effective: June 6, 2019

EXHIBIT A  
Surcharge Schedule  
(Pursuant to Resolution No. 2019-09)

Surcharge Based on Volume: \$10.93 per 1,000 gallons of water used during the month

CERTIFICATE

The undersigned hereby certifies that the foregoing Resolution is a true and exact copy of the Resolution adopted by the City Council of City of Harrisburg, South Dakota at a meeting duly called and held on May 6, 2019.

Adopted: May 6, 2019

Published: May 16, 2019

Effective: June 6, 2019

Dated this 6th day of May, 2019.

Mary McClung  
Finance Officer

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