

Harrisburg City Council  
Meeting Minutes

The regular meeting of the City Council was called to order on November 17, 2020 at 6:00 pm, with Mayor Wenck presiding. Council members present were Kevin Maxwell, Ryan Berg, Danny Tank and Ryan Olson. Also present from the city were Joe Stonesifer, Andrew Pietrus, and Jill Johnke. A list of all others in attendance is on file at the city office.

Pledge of Allegiance was recited.

Consent Agenda: Motion Berg, seconded Tank to approve the consent agenda as presented.

1. Approved November 17, 2020 Agenda
2. Approved November 3, 2020 City Council Meeting Minutes
3. Approved November 17, 2020 Claims
4. Approved Privacy Fencing at Public Works Facility – Install and Purchase in 2021
5. Approved to Purchase an Outdoor Bulletin Board
6. Approved to Purchase Smart Board for Conference Room
7. Approved and Authorized Mayor to Sign Pre-Annexation Agreement of Tract 1 of Fountain Estates, located in the W1/2NE1/4 of Section 34, T100N, R50W, 5<sup>th</sup> P.M., Lincoln County South Dakota
8. Approved and Authorized Mayor to Sign Plat of Tract 1 of Fountain Estates, located in the W1/2NE1/4 of Section 34, T100N, R50W, 5<sup>th</sup> P.M., Lincoln County South Dakota
9. Approved and Authorized Mayor to Sign Lincoln County Rural Water Request to Serve New Parcel 100.40.30.C02A at 47609 Krin Place Harrisburg SD

Upon roll call vote; all in favor.

AE2S – Engineering Professional Services/Fees (Sewer) \$2,008.25; Agora X Inc. – Energy (Streets, Water, Sewer, Parks, Engineering) \$640.58; Bumblebee Gibson – Repairs/Maintenance (Streets) \$2,028.98; Dakota Supply Group – Supplies/Materials (Govt Bldgs) \$301.91; Department of Treasury – 941 Withholdings \$8,317.62; Fareway Stores Inc. #178 – Supplies/Materials (Govt Bldgs) \$24.17; First Rate Excavate, Inc. – Professional Services/Fees (Storm Drainage) \$2,326.53; Geotek Engineering – Professional Services/Fees (Sewer) \$8,581.00; Haraldson, Nick & Brandi – Repairs/Maintenance (Strom Drainage) \$1,000.00; Harrisburg Water – Utilities (Govt Bldgs, Streets, Parks) \$1,289.58; Health Equity – H.A.A. Withholdings \$429.00; Health Equity – Professional Services/Fees (Chief Exec, Fin Admin, Streets, Water, Sewer, Parks, Engineering) \$25.00; Home Definition, Inc. – Professional Services/Fees (Govt Bldgs) \$25.00; K & M Tire – Repairs/Maintenance (Streets, Water, Sewer, Parks) \$720.00; Lewis & Clark Regional Water – Water for Resale (Water) \$10,912.10; Linc. Co. Rural Water System – Water for Resale (Water) \$2,774.50; Madison Apartments, LLC – Principal (TIF #2) \$27,420.30; Matheson Tri-Gas Inc. – Supplies/Materials (Streets, Water, Sewer, Parks) \$32.58; Menards – East – Supplies/Materials (Sewer) \$26.25; Metro Construction Inc. – Improve Other Than Buildings (Sewer) \$26,411.25; Midcontinent Communications – Energy (Sewer, Govt Bldgs) \$454.81; Nielson Development LLC – Cost Recovery (Sewer) \$3,574.29; Novak Sanitary Sewer – Utilities, Professional Services/Fees (Govt Bldgs, Solid Waste Disposal) \$1,429.91; Optilegra, Inc. – Group Insurance (Chief Exec, Community Dev Dir, Fin Admin, Planner, Engineering, Streets, Water, Sewer, Parks, Ins Withholdings) \$151.28; Payment Service Network – Professional Services/Fees (Planner, Water, Sewer) \$1,778.11; Perma Bound – Books (Library) \$4,990.30; Pfeifer Implement – Repairs/Maintenance (Snow Removal) \$655.48; Qualified Presort Service, LLC – Supplies/Materials (Water, Sewer) \$1,099.64; Running Supply, Inc. – Supplies/Materials (Streets, Water, Sewer, Parks) \$2.98; Rural Route 1 Services – Utilities (Govt Bldgs) \$126.50; Rushmore Service Center – Garnishment Withholdings \$224.87; Sanitation Products – Machinery/Equipment, Supplies/Materials (Sewer, Street Cleaning) \$2,350.53; Sioux Falls Humane Society – Professional Services/Fees (Animal Control) \$148.72; Sioux Falls Networks – Supplies/Materials (Chief Exec) \$825.00; Sioux Falls Networks – Professional Services/Fees (Fin Admin) \$254.35; Sioux International – Repairs/Maintenance (Weed Control) \$1,821.77; South Dakota One Call Systems – Professional Services/Fees (Water, Sewer) \$297.15; South Dak

Retirement System – SDRS Withholdings \$7,474.54; SD Supplemental Retirement Plan – Retirement Withholdings \$275.00; SE Electric Cooperative, Inc. – Energy (Sewer, Street Lighting, Water) \$3,546.14; USA Blue Book – Supplies/Materials (Water) \$1,716.95; Vast Broadband – Utilities (Library, Govt Bldgs) \$733.27; Wellmark Blue Cross Blue Shield – Group Insurance (Planner) \$171.90; White Glove Cleaning Services – Utilities (Govt Bldgs) \$106.25;

No public comment was offered.

Business Item 1. The Yak Shack LLC – Retail (On Sale) Liquor License Renewal. Motion Tank, seconded Maxwell to renew the inactive retail on sale liquor license for The Yak Shack LLC. Upon roll call vote; all in favor.

Business Item 2. Resolution 2020-27 Adopting a revised planning and building services fee schedule. Motion Tank, seconded Maxwell to approve Resolution 2020-27 Adopting a Revised Planning & Building Services Fee Schedule. Upon roll call vote; all in favor.

#### RESOLUTION 2020-27

#### A RESOLUTION ADOPTING A REVISED PLANNING & BUILDING SERVICES FEE SCHEDULE

WHEREAS, the City Of Harrisburg has adopted a Planning Fee Schedule by Resolution 2013-34; and

WHEREAS, the Harrisburg Planning Commission has reviewed the City’s current Planning Fee Schedule and recommends that the Schedule be revised to ensure that the City’s costs of issuing permits and accepting applications are covered; and

WHEREAS, the Harrisburg City Council has considered this recommendation and finds it to be reasonable and in the best interests of the residents of the City;

NOW, THEREFORE, BE IT RESOLVED by the Harrisburg City Council to approve and adopt the Planning & Building Services Fee Schedule as shown in attached Exhibit A.

Dated this 17th day of November, 2020.

HARRISBURG CITY COUNCIL

Seal:  
Attest:

Derick Wenck  
Mayor

Mary McClung  
Finance Officer

Published: November 27, 2020  
Effective: December 17, 2020

Published once at the approximate cost of \_\_\_\_\_.

Business Item 3. Resolution 2020-28 Resolution Giving Approval to the Financing of Capital Improvements to City Road and Infrastructure Projects, Giving Approval to the Issuance of a Borrower Bond to Finance a portion of the costs of such projects and authorizing the sale of said bonds; approving the form of the sales tax revenue bonds, designation of sales tax revenue bonds and pledging sales tax revenues to secure the payment of the bonds; and creating special funds and accounts for the administration of funds and retirements of the bonds. Motion Berg, seconded Maxwell to approve Resolution 2020-28 Resolution giving approval to the financing of Capital Improvements to City Road and Infrastructure projects, giving approval to the issuance of a borrower bond to finance a portion of the costs of such projects and authorizing the sale

of said bonds; approving the form of the sales tax revenue bonds, designation of sales tax revenue bonds and pledging sales tax revenues to secure the payment of the bonds; and creating special funds and accounts for the administration of funds and retirement of the bonds. Upon roll call vote; all in favor.

#### RESOLUTION NO. 2020-28

RESOLUTION GIVING APPROVAL TO THE FINANCING OF CAPITAL IMPROVEMENTS TO CITY ROAD AND INFRASTRUCTURE PROJECTS, GIVING APPROVAL TO THE ISSUANCE OF A BORROWER BOND TO FINANCE A PORTION OF THE COSTS OF SUCH PROJECTS AND AUTHORIZING THE SALE OF SAID BOND; APPROVING THE FORM OF THE SALES TAX REVENUE BONDS, DESIGNATION OF SALES TAX REVENUE BONDS AND PLEDGING SALES TAX REVENUES TO SECURE THE PAYMENT OF THE BONDS; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS AND RETIREMENT OF THE BONDS.

WHEREAS, the City of Harrisburg (the "City") desires to finance capital improvements to roads and infrastructure (the "Project"), details on projects are on file with the Finance Officer and open to public inspection;

WHEREAS, the City is authorized to issue sales tax revenue bonds to finance the capital improvements pursuant to Section 10-52-2.10 of the South Dakota Codified Laws;

WHEREAS, pursuant to Chapter 10-52 of the South Dakota Codified Laws (the "Act") the City proposes to issue a municipal non ad valorem borrower bond (as herein authorized, the Bond(s), or the "Revenue Bond(s)") to finance the Project;

WHEREAS, the City is authorized by the Act to levy a "non ad valorem tax" (as defined by the Act) on the sale, use, storage, and consumption of items taxed under Chapters 10-45 and 10-46 of the South Dakota Laws, subject to certain, as amended, exceptions;

WHEREAS, the City has adopted Chapter 11.01 of the Municipal Ordinances, City of Harrisburg, South Dakota, which constitutes the City's effective Sales Tax Ordinance (the "Sales Tax Ordinance");

WHEREAS, the Sales Tax Ordinance has been duly adopted pursuant to the Act and effectively and validly imposes the sales and use tax Act within the City, such tax being hereinafter referred to as the "Sales Tax";

WHEREAS, the cost of the Project is in excess of \$2,000,000.00 and the City proposes to finance approximately \$2,000,000.00 of the Project through the issuance of the Bonds, with the Bonds being payable out of collections of the Sales Tax as is necessary to pay principal, premium and interest on the Bonds (the "Pledged Tax").

NOW THEREFORE BE IT RESOLVED by the City as follows:

SECTION 1. Definitions. The terms when used in this Resolution ("Resolution") shall have the following meanings set forth in this section unless the context clearly requires otherwise.

"Act" means South Dakota Codified Laws Chapter 10-52.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Department of Treasury promulgated thereunder as in effect on the date of issuance of the Bonds.

“Colliers” means Colliers Securities LLC, Pierre, South Dakota.

“Issuance Costs” means costs but only to the extent incurred in connection with, and allocable to, the borrowing; underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification, and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than for qualified guarantees and similar costs.

“Mayor” means the Mayor elected pursuant to the provisions of the SDCL 9-13 or his or her designee acting on his or her behalf pursuant to the Charter.

“Outstanding,” “Bonds Outstanding,” or “Outstanding Bonds” means, as of a particular date all Bonds issued and delivered under this Resolution except: (1) any Bond paid or redeemed or otherwise canceled by the City at or before such date; (2) any Bond for the payment of which cash, equal to the principal amount thereof with interest to date of maturity, shall have theretofore been deposited prior to maturity by the City for the benefit of the owner thereof; (3) any Bond for the redemption of which cash, equal to the redemption price thereof with interest to the redemption date, shall have theretofore been deposited with the registration agent and for which notice of redemption shall have been mailed in accordance with this Resolution; (4) any bond in lieu of or in substitution for which another bond shall have been delivered pursuant to this Resolution, unless proof satisfactory to the City is presented that any bond, for which a bond in lieu of or in substitution therefor shall have been delivered, is held by a bona fide underwriter, as that term is defined in Article 8 of the Uniform Commercial Code of South Dakota, as amended, in which case both the bond in lieu of or in substitution for which a new bond has been delivered and such new bond so delivered therefor shall be deemed Outstanding; and, (5) any bond deemed paid this Resolution, except that any such Bond shall be considered Outstanding until the maturity or redemption date thereof only for the purposes of being exchanged, transferred, or registered.

“Person” means an individual, partnership, corporation, trust, or unincorporated organization, or a governmental entity or agency or political subdivision thereof.

“Project” means capital improvements to City’s roads and infrastructure.

“Record Date” means the close of business on the first/fifteenth day (whether or not a business day) of the calendar month next preceding such interest payment date.

“Revenue Bond(s),” or “Bond(s)” means the Sales Tax Revenue Bonds, Series 2021 issued by the City.

## *SECTION 2. Declaration of Necessity and Findings.*

**2.1. Declaration of Necessity.** The City hereby determines and declares it is necessary to construct and finance improvements described as the Project.

**2.2. Findings.** The City does hereby find as follows:

**2.2.1.** The Project constitutes capital improvements which qualify for the financing under and pursuant to SDCL Chapter 10-52, and the Sales Tax Ordinance.

**2.2.2.** The Revenue Bonds authorized hereby are being issued to pay costs of the Project which have not been incurred or paid as of the date hereof and/or which the City has heretofore declared its intention to finance with bond proceeds and for which the City has no other available means or source of financing.

**2.2.3.** It is in the best interests of the City to authorize the borrowing of funds to pay a portion of the costs of the Project by authorizing and issuing its Revenue Bonds, consistent with the terms approved hereby for an aggregate sum not in excess of the amount of \$2,000,000.00.

*SECTION 3. Authorization of Bonds.*

**3.1. Authorization of Bonds.** The City hereby determines and declares it necessary to issue Revenue Bonds in a principal amount of not to exceed \$2,000,000, plus costs of issuance and any reserve fund requirement. The Bonds are issued for the purpose of financing the Project and Issuance Costs, including proper reimbursements, and will be payable from Pledged Tax.

**3.2. Approval of Revenue Bonds.** The issuance of Revenue Bonds in the principal amount not to exceed \$2,000,000, plus costs of issuance and any reserve fund requirement, shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bonds and deliver the Revenue Bonds to the ultimate purchaser, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth herein. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bonds and their execution and delivery thereof shall evidence that approval. The Revenue Bonds shall be issued under the authority of the Act and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein.

**3.3. Pledged Tax.** The Revenue Bonds 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 Tax.

**3.4. No Election Required.** The Bonds may be issued by the City without an election pursuant to SDCL §10-52-2.10.

*SECTION 4. Pledged Tax.*

**4.1. Pledged Tax.** Pursuant to the Act and the Sales Tax Ordinance, the City has levied the Sales Tax on the sale, use, storage and consumption of items taxes under Section 10-45 and 10-46 of South Dakota Codified Laws, subject to certain exceptions. The proceeds of the Pledged Tax are irrevocably pledged and appropriated and shall be deposited to the Sales Tax Revenue Bond Fund 2021. For purposes of this Resolution, "Outstanding Bond" shall mean the Bond and any parity lien Bond hereafter issued pursuant to this Resolution. The Pledged Tax and the Sales Tax Revenue Bond Fund 2021 shall be used and applied only in the manner and order hereinafter set forth.

**4.2. Payment of Bonds with Pledged Tax.** The Pledged Tax shall be segregated from other revenues of the City and shall be used for the payment of the principal and interest, when due on the Revenue Bonds. The Pledged Tax shall create net income used first for paying debt service fund annual requirements and shall be maintained at not less than 100% of the debt service requirements on the Revenue Bonds.

**4.3. Segregation.** The Finance Officer shall setup bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue, special charges and surcharges.

SECTION 5. Additional Bonds. Additional bonds payable from the Pledged Tax may be issued, as permitted in the section, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from

the extensions, additions or improvements. The City may issue additional bonds (the "Parity Bonds") payable from the Pledged Tax and having a lien upon such revenues on a parity with the Bonds and the Outstanding Parity Bonds providing that:

**5.1.** the City is current in the payment of principal and interest on the Outstanding Bonds and is current in the collections required for the Principal and Interest Account and the Reserve Account.

**5.2.** the Pledged Revenues collected by the City in the last preceding fiscal year are sufficient to cover 1.20 times the maximum annual principal and interest requirements on the Outstanding Bonds and the proposed Parity Bonds. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bonds.

SECTION 6. Project Fund Accounts. For the purpose of application and proper allocation of the Pledged Tax and to secure the payment of principal and interest on the Revenue Bonds, the following mandatory asset segregations shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bonds:

**6.1. Sales Tax Revenue Bond Fund 2021.** The Finance Officer is hereby authorized and directed to establish and shall maintain the Sales Tax Revenue Bond Fund 2021 as a separate and special fund in the financial records of the City until all Bonds issued and made payable there from, and interest due thereon, have been duly paid or discharged (the "Revenue Account"). All collections of the Pledged Tax, as hereinafter defined, shall be credited, as received, to the Revenue Account. Moneys from the Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

**6.2. Construction Account.** There is hereby created and established as an account of the Sales Tax Revenue Bond Fund 2021, a "Construction Account". There shall be credited to the Construction Account the proceeds from the sale of the Bond remaining after payment of the expenses of issuing the Bond. All moneys credited to the Construction Account shall be applied solely to the payment of the costs of the Project. For the purposes of this Resolution, "costs of the Project" shall include costs of acquiring, construction, and installing the Project including cost of labor, services, materials and supplies, financial, architectural, engineering, legal, accounting and other professional expenses relating to the Project, the costs of acquisition or properties, rights, easements, or other interest in properties, insurance premiums, and the costs of publishing, posting or mailing notices in connection with the Project. All sums derived from the investment of moneys in the Construction Account shall remain in and become part of such account. Upon completion of the Project and when all costs of the Project have been paid, any balance remaining in the Construction Account shall be credited to the Project Debt Service Account hereinafter established.

**6.3. Project Debt Service Account.** Out of the revenues in the Revenue Account, there shall be set aside no later than the 25<sup>th</sup> day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal and interest payment on the Revenue Bonds and any reserve determined by the City's governing body to be necessary.

**6.4. Reserve Account.** Should a reserve be required for the sale of the Bonds, there may be a reserve account established in the amount equal to the lesser of (i) 10% of the original principal amount, (ii) the maximum annual debt service on, or (iii) 125% of the average annual debt service on, all Outstanding Bonds having a parity lien on the Pledged Tax if required.

**6.5. Project Surplus Account.** There shall be established the Project Surplus Account. Revenues remaining in the Revenue Account at the end of any fiscal year after all periodic

transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the Project Debt Service Account, moneys in the Project Surplus Account from time to time may be used for any of the following purposes:

- (a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;
- (b) To pay for repairs of or for the construction and installation of improvements or additions to the Project; and, if the balance in the Project Debt Service Account is sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then; or
- (c) To be used for any other authorized municipal purpose designated by the Council.

SECTION 7. Approval of Bond Counsel. Cutler Law Firm, LLP is hereby retained as Bond Counsel with respect to the Revenue Bond (“Bond Counsel”).

SECTION 8. Approval of Colliers. The Mayor and Finance Officer are authorized to retain Colliers & Company LLC as underwriter/placement agent for the Bonds.

SECTION 9. Rating Agency. The Mayor and Finance Officer are authorized to retain a rating agency, if required, upon such terms as they approve.

SECTION 10. Tax Matters. The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (“the Code”) and applicable Treasury Regulations (the “Regulations”).

SECTION 11. Covenants. The City hereby covenants and agrees with the owners of the Revenue Bond as follows:

**11.1.** The City will punctually perform all duties with reference to the Project and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this resolution.

**11.2.** The City agrees and covenants that it will promptly acquire and construct the improvements included in and related to the Project and spend all available proceeds of the Revenue Bonds including interest earnings thereon within three years from the date of issuance. The City reasonably anticipates to enter into a binding agreement to spend not less than 5% of the proceeds of the Bonds within six months of the date of issuance.

**11.3.** It will not amend or repeal the Sales Tax Ordinance relating to the Sales Tax by decreasing the Sales Tax rate or the allocation of revenues thereof to the Sales Tax Revenue Bond Fund 2021, or in any way that would adversely affect the amount of Sales Tax revenues which would otherwise be collected

and deposited to the Sales Tax Revenue Bond Fund 2021. However, nothing shall prevent the City from amending the Sales Tax Ordinance in order to make certain changes in the administration, collection or enforcement of the Sales Tax, provided that such changes would not materially adversely affect the owners of the Bonds.

**11.4.** It will administer, enforce, and collect, or cause to be administered, enforced or collected, the Sales Tax authorized by the Sales Tax Ordinance and shall take such necessary action to collect delinquent payments in accordance with law.

**11.5.** It will keep or cause to be kept such books and records showing the proceeds of the Sales Tax, in which complete entries shall be made in accordance with standard principles of accounting, and any owner of any Bond shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipts of such Sales Tax.

**11.6.** In the event the Sales Tax of the City is replaced and superseded by the state collected-locally shared sales tax or taxes, or is replaced and superseded in some other manner from other source or sources, the revenues derived by the City from the replacement source or sources, as received by the City shall be appropriated in the same manner as if the City had levied and imposed a sales tax. From and after the date of a replacement, the Outstanding Bonds shall have a first and prior lien, but not necessarily an exclusive lien, upon such replacement revenues to the extent therein specified.

**11.7.** The City covenants and agrees that it will at all times comply with the Code and Regulation so that the interest on the Bonds not be includable in gross income for federal income tax purposes.

SECTION 12. Depositories. The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

SECTION 13. Severability. If any section, paragraph, clause or provision of this Resolution, the

Revenue Bonds, or any agreement pertaining hereto 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 Revenue Bonds, or any other documents pertaining hereto.

SECTION 14. Authorization of City Officials. The Mayor, Finance Officer, and the City

Administrator shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate by Bond Counsel and the original purchaser of the Bonds in order to implement and carry out the actions authorized herein.



*SECTION 15. Sale of Bonds.*

**15.1. Sale.** The Bonds shall be sold to a purchaser or purchasers or placed by Colliers at a true interest cost for the Bonds not to exceed 2.50% per annum or have a final maturity date later than February 15, 2036. The Mayor and the Finance Officer, or either of them, in consultation with Colliers, is authorized to make such changes in the structuring of the terms and sale of the Bonds as they shall deem necessary. In this regard, they, or either of them, in consultation with Colliers, are authorized to cause to be sold an aggregate principal amount of the Bonds less than that authorized herein, to sell any or all of the Bonds as term Bonds with annual mandatory redemption requirements which will produce substantially the same annual principal reductions as authorized herein, to change the dated date of the Bonds, and to adjust principal and interest payment dates and redemption dates of the Bonds. The Mayor and the Finance Officer, or either of them, are hereby authorized to execute and the Finance Officer is authorized to attest any documents necessary by the ultimate purchaser of the Bonds to effectuate the sale of the Bonds in accordance with the provisions of this Resolution, and is not inconsistent with the terms hereof. The Mayor and Finance Officer are authorized to cause the Bonds to be authenticated and delivered by the Registration Agent to the purchaser and to execute, publish, and deliver all certificates and documents and closing certificates and documents, as they shall deem necessary in connection with the sale and delivery of the Bonds.

**15.2.** The Bonds are issuable only as fully registered Bonds, without coupons, in the denomination of Five Thousand Dollars (\$5,000), any integral multiple thereof, or such denominations as the Finance Officer determines with the original purchaser of the Bonds.

**15.3.** The Bonds shall be executed in such manner as may be prescribed by applicable law in the name and on behalf of the City with the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Finance Officer, and approved as to form and countersigned by a Resident Attorney by his manual or facsimile signature.

**15.4.** In the event any officer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such manual or such facsimile signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. Any Bond may bear the facsimile signature of, or may be manually signed by, such individuals who, at the actual time of the execution of such Bond, were the proper officers of the City to sign such Bond, although on the date of the adoption by the City of this Resolution, such individuals may not have been such officers.

**15.5.** The Bonds are transferable as set forth in the ultimate Bond delivered to the ultimate purchaser and the Finance Officer (the "Registration Agent") is hereby appointed as registration agent. The Bonds need not be presented to the Registration Agent for payment and may be transferred by executing in writing the form of assignment on the reverse side thereof completed in full and signed with the name of the registered owner as it appears upon the face of the Bond(s) accompanied by appropriate documentation necessary to prove the legal capacity of any legal representative of the registered owner. Upon receipt of the Bond(s) in such form and with such documentation, if any, the Registration Agent shall issue a new Bond or Bonds to the assignee(s) in \$5,000 denominations, or integral multiples thereof, as requested by the registered owner requesting transfer. The Registration Agent shall not be required to transfer or exchange any Bond during the period commencing on a Regular or Special Record Date and ending on the corresponding interest payment date of such Bond, nor to transfer or exchange any Bond after the publication of notice calling such Bond for redemption has been made, nor to transfer or exchange any Bond during the period following the receipt of

instructions from the City to call such Bond for redemption; provided, the Registration Agent, at its option, may make transfers after any of said dates. No charge shall be made to any registered owner for the privilege of transferring any Bond, provided that any transfer tax relating to such transaction shall be paid by the registered owner requesting transfer. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and neither the City nor the Registration Agent shall be affected by any notice to the contrary whether or not any payments due on the Bonds shall be overdue. Bonds, upon surrender to the Registration Agent, may, at the option of the registered owner, be exchanged for an equal aggregate principal amount of Bonds of the same maturity in any authorized denomination or denominations.

**15.6.** In the event any Bond is mutilated, lost, stolen, or destroyed, the City may execute, and upon the request of the City, the Registration Agent shall authenticate and deliver, a new Bond of like maturity, interest rate, and principal amount, and bearing the same number (but with appropriate designation indicating that such new Bond is a replacement Bond) as the mutilated, destroyed, lost, or stolen Bond, in exchange for the mutilated Bond or in substitution for the Bond so destroyed, lost, or stolen. In every case of exchange or substitution, the bondholder shall furnish to the City and the Registration Agent: (1) such security or indemnity as may be required by them to save each of them harmless from all risks, however remote; and, (2) evidence to their satisfaction of the mutilation, destruction, loss, or theft of the subject Bond and the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, the City and the Registration Agent may require the Owner thereof to pay a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including printing costs and counsel fees, of the City and the Registration Agent. In the event any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost, or stolen, the City may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the Owner thereof shall pay all costs and expenses, including attorney's fees, incurred by the City and the Registration Agent in connection herewith, as well as a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and shall furnish to the City and the Registration Agent such security or indemnity as they may require to save them harmless and evidence to the satisfaction of the City and the Registration Agent the mutilation, destruction, loss, or theft of such Bond and of the ownership thereof.

**15.7.** Every Bond issued pursuant to the provisions of this section shall constitute an additional contractual obligation of the City (whether or not the destroyed, lost, or stolen Bond shall be found at any time to be enforceable) and shall be entitled to all the benefits of this Resolution equally and proportionately with any and all other Bonds duly issued under this Resolution.

**15.8.** All Bonds shall be held and owned upon the express condition that the provisions of this Section are exclusive, with respect to the replacement or payment of mutilated, destroyed, lost, or stolen Bonds, and, to the maximum extent legally permissible, shall preclude all other rights or remedies, notwithstanding any law or statute now existing or hereafter enacted to the contrary.

**15.9.** The Registration Agent is hereby authorized to authenticate and deliver the Bonds to Colliers or as it may designate upon receipt by the City of the proceeds of the sale thereof, to authenticate and deliver Bonds in exchange for Bonds of the same principal amount delivered for transfer upon receipt of the Bond(s) to be transferred in proper form with proper documentation as hereinabove described. The Bonds shall not be valid for any purpose unless authenticated by the Registration Agent by the manual signature of an officer thereof on the

certificate set forth herein on the Bond form.

**15.10.** Payments of principal and interest on the Bonds shall be payable by ACH, wire transfer, check or draft mailed to the registered owner(s) of the Bonds.

*SECTION 16. Preliminary Official Statement and Official Statement.*

If required for placement of the Bonds by Colliers, the Mayor and Finance Officer, and the underwriter are hereby authorized and directed to provide for the preparation and distribution of a Preliminary Official Statement describing the Bonds (the "Preliminary Official Statement").

After the Bonds have been sold, the Mayor and Finance Officer shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement for purposes of Rule 15c2-12(e)(3) of the Securities and Exchange Commission.

To comply with paragraph (b) (3) of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule") and with Rule G-32 City agrees to deliver to the underwriter, the Official Statement (which shall be a final official statement, as such term is defined in the Rule, as of its date) in an electronic format as prescribed by the MSRB.

The City hereby covenants and agrees that it will provide financial information and material event notices as required by Rule 15c2-12 of the Securities Exchange Commission for the Revenue Bonds. The Mayor is authorized to execute at the closing of the sale of the Revenue Bonds, an agreement for the benefit of and enforceable by the owners of the Revenue Bonds specifying the details of the financial information and material event notices to be provided and its obligations relating thereto. Failure of the City to comply with the undertaking herein described and to be detailed in said closing agreement, shall not be a default hereunder, but any such failure shall entitle the owner or owners of any of the Revenue Bonds to take such actions and to initiate such proceedings as shall be necessary and appropriate to cause the City to comply with its undertaking as set forth herein and in said agreement, including the remedies of mandamus and specific performance.

*SECTION 17. Record Retention and Post Issuance Compliance.*

The City does hereby

adopt a Post-Issuance Compliance Policy for Tax Exempt and Tax-Advantaged Obligations and Continuing Disclosure policy as its written post issuance compliance procedures with regard to the current financing. The Finance Officer is directed to retain records with regard to this financing for the entire term of the financing plus three years and to keep record of all payments for six years after the payment has been made.

*SECTION 18. Effective Date.* This Resolution shall take effect on the 20<sup>th</sup> day following its publication, unless suspended by a referendum.

Adopted at City of Harrisburg, South Dakota, this 17<sup>th</sup> day of November, 2020.

APPROVED:  
Derick Wenck  
Mayor

(SEAL)

Attest: Mary McClung  
City Finance Officer

Passed: November 17, 2020  
Published: November 26, 2020  
Effective: December 16, 2020

Business Item 4. Resolution 2020-29 – Petition for Voluntary Annexation from Craig & Pam Ostebee for Johnson Tract 5 located in the NE1/4 of Section 1, T99N, R50W, 5<sup>th</sup> P.M., Lincoln County, South Dakota (approximately 3 acres) Motion Tank, seconded Maxwell to approve Resolution 2020-29 – Petition for Voluntary Annexation from Craig & Pam Ostebee for Johnson Tract 5 located in the NE1/4 of Section 1, T99N, R50W, 5<sup>th</sup> P.M., Lincoln County South Dakota (approximately 3 acres) Upon roll call vote; all in favor.

RESOLUTION 2020-29

A RESOLUTION TO APPROVE A PETITION FOR ANNEXATION OF CERTAIN PROPERTY  
CONTIGUOUS TO THE CITY OF HARRISBURG,  
LINCOLN COUNTY, SOUTH DAKOTA.

WHEREAS, the City of Harrisburg has received a written petition for voluntary annexation signed by not less than three-fourths of the registered voters and by the owners of not less than three-fourths of the value of the territory sought to be annexed to the municipality;

WHEREAS, certain territory, hereinafter more particularly described, is contiguous to the City of Harrisburg, South Dakota; and

WHEREAS, the Planning Commission of the City of Harrisburg recommends that said area be annexed thereto;

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Harrisburg, South Dakota, that the boundaries of said City of Harrisburg, South Dakota, be and they hereby are extended to include the area contiguous to the City of Harrisburg described as follows:

Johnson Tract 5, located in the NE<sup>1</sup>/<sub>4</sub> of Section 1, T99N, R50W, 5<sup>th</sup> P.M., Lincoln County, South Dakota. (Approximately 3 acres)

NOW THEREFORE BE IT FURTHER RESOLVED by the City of Harrisburg that the within-described territory is hereby designated Urban Service District, thus amending Ordinance #2006-016;

NOW THEREFORE BE IT FURTHER RESOLVED by the City of Harrisburg that the zoning for the within described territory be designated as R-1: Single Family Detached Residential District.

NOW THEREFORE BE IT FURTHER RESOLVED by the City of Harrisburg that this resolution shall become effective according to law.

Dated at Harrisburg, South Dakota, this 17th day of November, 2020.

COMMON COUNCIL OF THE CITY OF HARRISBURG

Seal:  
Attest:

Derick Wenck  
Mayor

Mary McClung  
Finance Officer

Published: November 26, 2020

Effective: December 17, 2020

Business Item 5 1<sup>st</sup> Reading of Ordinance 2020-10 Supplemental Appropriations Ordinance. Motion Olson, seconded Maxwell to set the 2<sup>nd</sup> Reading Ordinance 2020-10 for Monday December 7, 2020. Upon roll call vote; all in favor.

Business Item 6. Approve and Authorize Mayor to Sign Change Order #4 – Water Reclamation Facility. Motion Tank, seconded Maxwell to approve and authorize the Mayor to sign change order #4 for the Harrisburg Water Reclamation Facility in the net amount of \$0.00. Upon roll call vote; all in favor.

Business Item 7. Approve and Authorize Mayor to Sign Pay Application #4 – Water Reclamation Facility – Henry Carlson Construction, LLC. Motion Berg, seconded Olson to approve and authorize the Mayor to sign pay application #4 for the Harrisburg Water Reclamation Facility from Henry Carlson Construction, LLC in the amount of \$1,218,922.00. Upon roll call vote; all in favor.

Business Item 8. Approve and Authorize Mayor to Sign Pay Application #7 – Harrisburg Force Main – Metro Construction. Motion Maxwell, seconded Tank to approve and authorize the Mayor to sign pay application #7 for the Harrisburg Force Main from Metro Construction, LLC in the amount of \$134,368.36. Upon roll call vote; all in favor.

Business Item 9. Approve and authorize Mayor to sign SRF Reimbursement #9 for Water Reclamation Facility/ Forcemain. Motion Olson, seconded Maxwell to approve and authorize the Mayor to sign SRF reimbursement #9 for Water reclamation facility/forcemain and engineering in the amount of \$1,353,291. Upon roll call vote; all in favor.

Business Item 10. Approve and Authorize Mayor to Sign Change Order #4 – Westside Trunk Sewer. Motion Maxwell, seconded Tank to approve and authorize the Mayor to sign change order #4 for the westside trunk sewer drain tile in the amount of \$6,500.00. Roll call vote – Berg -aye, Olson – abstains, Maxwell – aye, Tank – aye. Motion passes.

Business Item 11. Approve and Authorize Mayor to Sign Pay Application #5 -Westside Trunk Sewer – H & W Contracting. Motion Maxwell, seconded Tank to approve and authorize the Mayor to sign pay application #5 for the Westside Trunk Sewer from H & W Contracting LLC in the amount of \$460,231.11. Upon roll call vote; all in favor.

Business Item 12. Executive Session pursuant to SDCL 1-25-2 (4) Contract Negotiations. Motion Tank seconded Maxwell to enter into executive session pursuant to SDCL 1-25-2 (4) Contact Negotiations at 6:22pm.

Mayor declared out of executive session at 6:55 pm.

With no further business, a motion was made by Olson, seconded Maxwell, to adjourn the city council meeting at 6:55 pm. Upon roll call vote; all in favor.

The next regular meeting of the Harrisburg City Council will be held at 6:00 pm on Monday, December 7, 2020.

Submitted by Jill Johnke, Deputy Finance Officer

Published once in the Sioux Valley News at the approximate cost of \_\_\_\_\_.