

RESOLUTION NO. 2024-10

RESOLUTION GIVING APPROVAL TO THE ISSUANCE OF SALES TAX REVENUE BOND, SERIES 2024 AND AUTHORIZING THE TERMS OF SALE OF SAID BOND.

WHEREAS, the City of Harrisburg (the "City") is authorized by Chapter 10-52 of the South Dakota Codified Laws to levy a non-ad valorem tax (as defined in said Chapter 10-52) on the sale, use, storage, and consumption of certain items taxed under Chapters 10-45 and 10-46 of the South Dakota Codified Laws, subject to certain exceptions, at a rate not to exceed two percent (2%);

WHEREAS, the City has adopted and enacted Chapter 11.01 of the Municipal Ordinances of the City of Harrisburg (the "Sales Tax Ordinance") imposing a sales and use tax (the "Sales and Use Tax"), as authorized by SDCL Chapter 10-52, at the rate of two percent (2%);

WHEREAS, pursuant to Section 10-52-2.10 and 6-8B of the South Dakota Codified Laws (the "Acts"), the City is authorized to issue sales tax revenue bonds in anticipation of the collection of sales and use taxes and to pledge the revenues from such taxes to the payment of such bonds; and

WHEREAS, in order to partially finance the construction of infrastructure within the City of Harrisburg, the City has determined that it is necessary and in the best interests of the City to issue Sales Tax Revenue Bond, Series 2024 in an amount not exceeding \$4,000,000 (the "Series 2024 Bond" or the "Bond") in a private bond sale.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisburg, 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) As authorized by this Resolution and the Acts, the City has determined that it is necessary and desirable to issue the Series 2024 Bond in a principal amount not to exceed \$4,000,000;

(c) The proceeds of the Series 2024 Bond are to be used to finance the construction of infrastructure within the City and to pay the costs of issuance of the Bond;

(d) The Series 2024 Bond may be issued by the City without an election pursuant to the Acts; and

(e) The Bond will be issued, sold and delivered by the City to the purchaser pursuant to the terms of this Resolution.

Section 1.02 Authorization and Execution of Bond; Terms. As authorized by the Acts, the City shall issue one fully registered Bond in the principal amount not to exceed the sum of \$4,000,000. The Bond shall be designated "Sales Tax Revenue Bond, Series 2024," shall be numbered R-1, and shall be dated as of the date of its issuance. The Bond shall be issued under the authority of the Acts, and the provisions of the Acts are hereby expressly incorporated herein. If required by the purchaser of the Bond, the City officials are also authorized to execute and deliver any necessary closing documents such as any wire transfer agreement.

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 Series 2024 Bond; and
- (b) 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 2024 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 2024 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 Bond with such changes as the City Attorney deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City as set forth in this Resolution.

Section 1.04 Sale of Bond. The sale of the Series 2024 Bond to the purchaser for the purchase price of \$4,000,000 plus interest, if any, 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 1.05 Application of Bond Proceeds. Proceeds of the Bond shall be deposited in the City's fund for infrastructure improvements.

Section 1.06 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.

Section 1.07 Registration. The Bond shall be registered bonds. The City hereby appoints its Finance Officer as paying agent, registrar and transfer agent (the "Registrar") for the Bond. The City reserves the right to appoint a financial institution as Registrar upon thirty (30) days notice.

ARTICLE II: SECURITY FOR THE BOND

Section 2.01 Pledge of Sales and Use Tax Revenues. Pursuant to SDCL 10-52-2.10, the City hereby irrevocably pledges to Central Electric Cooperative, Inc. all revenues received from the Sales and Use Tax (the "Pledged Revenues") in order to secure the City's obligation to pay all amounts payable under the Series 2024 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 2024 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.

Section 2.03 Reserve Account. If required by the purchaser, the City shall create a reserve account to keep on deposit an amount required by the purchaser according to the final negotiated terms of the Bond (the "Reserve Account").

Section 2.04 Inter-fund Transfer. So long as the Pledged Revenues are sufficient to make all required payments on the Series 2024 Bond, and any other bonds secured by the Pledged Revenues, the City may spend or deposit the excess revenues from Sales and Use Tax to the general fund or any other City fund as determined by the City and permitted by law.

ARTICLE III: OTHER COVENANTS

Section 3.01 Compliance With Laws. The City hereby covenants and agrees with the holder of the Series 2024 Bond, that it will punctually perform all duties with reference to the Series 2024 Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

Section 3.02 Other Covenants. The City will not amend or repeal the Sales Tax Ordinance until the Series 2024 Bond is paid in full. The City covenants and agrees with the owners of the Series 2024 Bond that it will prepare, keep and file records, statements and accounts as provided for in this Resolution. Other covenants required of the purchaser shall be specified in the Series 2024 Bond.

Section 3.03 Additional Bonds. Additional bonds payable from the Pledged Revenues may be issued on parity with the Series 2024 Bond, 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 Revenues and having a lien upon such revenues on a parity with the Bond and the providing that:

- (a) The City is current in the payment of principal and interest on all bonds secured by the Pledged Revenues (the "Outstanding Bonds") and is current in the collections required for the payments and Reserve Account, if any, for the Series 2024 Bond;
- (b) The City is in compliance with all covenants of all Outstanding Bonds secured by the Pledged Revenues; and
- (c) The Pledged Revenues collected by the City in the last preceding fiscal year are sufficient to cover 1.25 times the combined average annual principal and interest requirements on the Outstanding Bonds and the proposed Parity Bonds.

ARTICLE IV: TAX MATTERS

Section 4.01 Tax Matters. The City covenants and agrees with the registered owners from time to time of the Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bond to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Bond will not become subject to taxation under the Code and the Regulations. The City will cause to be filed with the Secretary of Treasury an information reporting statement in the form and at the time prescribed by the Code.

The City reasonably anticipates that the amount of tax-exempt obligations which will be issued by the City and all entities subordinate to, or treated as one issuer with, the City during calendar year 2024 will not exceed \$10,000,000. The Bond are hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. The City will not designate, or cause any subordinate entity or request any other governmental entity to designate on its behalf more than \$10,000,000 of its obligations as "qualified tax-exempt obligations" in calendar year 2024. The City does not reasonably expect that it or any subordinate entity will issue, and will not request any other governmental entity to issue on its behalf, in calendar year 2024, more than \$10,000,000 of obligations which it or any such entity could designate as "qualified tax-exempt obligations."

If the City agrees to comply with all provisions of the Code, which if not complied with by the City, would cause the interest on the Bond not to be tax-exempt in the hands of a holder who is a natural person, including, if determined to be necessary upon advice of bond counsel, the payment of any rebate amount necessary to preserve such tax exemption pursuant to Section 148 of the Code. The City further agrees: (1) through its officers, to make such further specific covenants, representations as shall be truthful, and assurance as may be necessary or advisable; (2) to consult with bond counsel and to comply with such advice as may be given; (3) to file such

forms, statements, and supporting documents as may be required and to do so in a timely manner; and (4) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the City in such compliance.

ARTICLE V: MISCELLANEOUS

Section 5.01 Limited Obligations. The Series 2024 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 and the Reserve Account, which payments, revenues and receipts are hereby pledged and assigned for the equal and ratable payments of the Series 2024 Bond and shall be used for no other purpose than to pay the principal of and interest on the Bond, except as may be otherwise expressly authorized by this Resolution.

Section 5.02 Severability. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution. 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 2024 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 5.03 Retention of Bond Counsel. The City hereby retains Nathan S. Schoen of the firm of Cutler Law Firm, LLP, Sioux Falls, South Dakota, to act as bond counsel with respect to the Series 2024 Bond.

Section 5.04 Retention of Colliers. The City hereby retains Colliers & Company LLC as underwriter/placement agent for the Bond.

Section 5.05 Rating Agency. The Mayor and Finance Officer are authorized to retain a rating agency, if required, upon such terms as they approve.

Section 5.06 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 2024 Bond, this Resolution may be amended at any time by adoption of an administrative resolution.

Section 5.07 Certification of Proceedings. The officers of the City are authorized and directed to prepare and furnish to the purchasers of the Bond certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bond and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bond as such facts appear from the officer's books and records or are otherwise known to them. All such certified copies, certificates and affidavits, including any

heretofore furnished, shall constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5.08 Legislative Nature of Resolution. This Resolution shall constitute authority to issue the Series 2024 Bond without any further action. The City may hereafter pass a resolution indicating the final terms of which shall be administrative in nature and effective upon passage.

Dated this 16 day of July, 2024.

[CITY SEAL]



Mayor

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be "D. [unclear]".

ATTEST:

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be "D. Harris".

Finance Officer

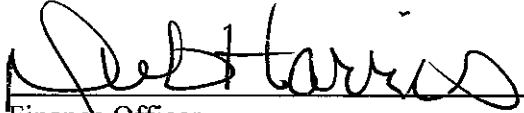
CERTIFICATE

The undersigned hereby certifies that the foregoing Resolution is a true and exact copy of the Resolution adopted by the City Council of the City of Harrisburg, South Dakota at a meeting duly called and held on July 16, 2024.

Published: _____, 2024

Effective: _____, 2024

Dated this 16 day of July, 2024.



Finance Officer

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