

City of Tea  
Regular Meeting  
May 6, 2019

A regular meeting of the Tea City Council was held at Tea City Hall on May 6, 2019 at 7:00 p.m.

Mayor John Lawler called the meeting to order at 7:02 p.m. with the following members present: Sidney Munson, Jim Erck, Chuck Ortmeier, Joe Weis and Todd Boots. Also present: Finance Officer Dawn Murphy, Planning & Zoning Administrator Kevin Nissen, and City Administrator Dan Zulkosky. Councilmember Casey Voelker was absent.

There were no public comments.

**AGENDA. MOTION 19-72. MOTION** by Ortmeier, seconded by Erck to approve the May 6, 2019 agenda with the addition of tax abatements. All members voted AYE.

**MINUTES. MOTION 19-73. MOTION** by Weis, seconded by Ortmeier to approve the April 19, 2019 minutes. All members voted AYE.

**WARRANTS. MOTION 19-74. MOTION** by Weis, seconded by Ortmeier to approve the warrants as presented. All members voted AYE. Warrants will be listed at the end of the minutes.

**OATH OF OFFICE.** At this time, Councilmembers Ortmeier and Munson took their Oath of Office.

**CITY COUNCIL PRESIDENT.** Councilmember Munson nominated Councilmember Ortmeier for City Council President. **MOTION 19-75. MOTION** by Weis, seconded by Erck that nomination cease and cast a unanimous ballot for Councilmember Ortmeier as City Council President. All members voted AYE.

**CITY COUNCIL VICE PRESIDENT.** Councilmember Munson nominated Councilmember Weis as City Council Vice President. **MOTION 19-76. MOTION** by Erck, seconded by Ortmeier that nomination cease and cast a unanimous ballot for Councilmember Weis as City Council Vice President. All members voted AYE.

**APPOINTMENT OF MUNICIPAL OFFICIALS. MOTION 19-77. MOTION** by Boots, seconded by Munson to approve the following appointments as required by City of Tea Ordinance 1.01(a) and SDCL 9-14-3. All members voted AYE.

- Finance Officer – Dawn Murphy
- Police Chief - Jessica Quigley
- Utility Superintendent – Thad Konrad

**COMMITTEE APOINTMENTS. MOTION 19-78. MOTION** by Ortmeier, seconded by Weis to approve the following committee/board appointments. All members voted AYE.

- Water, Sewer & Street – Councilmember Boots
- Police – Councilmember Munson
- Fire Department – Councilmember Weis
- Pool, Parks, & Tea Park and Recreation Board – Councilmember Erck
- Library Board – Councilmember Weis
- Library Board Public Representatives – Deanna Ernster & Holly Hank
- HRC Board – Councilmember Chuck
- TEDC Board – Councilmember Voelker

**OTHER DESIGNATIONS. MOTION 19-79. MOTION** by Ortmeier, seconded by Erck to approve the following designations as provided for in South Dakota Codified Law. All members voted AYE.

- City Attorney (SDCL 9-4-22) – Meierhenry Sargent, LLP
- City Engineer (SDCL 9-14-24) – HDR Engineering

- Official Paper (SDCL 9-12-6) – Tea Weekly
- Official Depository (SDCL 9-22-6) – Valley Exchange Bank, SD Public Funds Investment Trust and Reliabank

**SKY LOUNGE TEA POT DAY ACTIVITIES.** Beth Mielke, co-owner of Sky Lounge was present to discuss the events they would like to have for Teapot Day. Iron Creek Band and Sugar Daddy will be their bands playing on Saturday and they plan to have their outdoor dart tournament Friday night. It was the consensus of the council that they could block off 2<sup>nd</sup> Street the same as they did last year for Friday and Saturday's events.

**SITE PLAN/BUILDING PERMIT.** Kevin presented and recommended approval of a site plan and building permit for a 10,875 sq. ft. building to be used as an office and warehouse in Carl W. Soukup Addition. **MOTION 19-80. MOTION** by Boots, seconded by Weis to approve the site plan and building permit for Matt Millage, MJM Investments, LLC for construction of a 10,875 sq. ft. building at 105 E. High Pointe St., Lot 2, Block 3, Carl W. Soukup's Addition. All members voted AYE.

**SITE PLAN.** Kevin presented and recommended approval of a site plan for a 13,000 sq. ft. building to be used for equipment rental/sales and warehouse in Bakker Landing Addition. **MOTION 19-81. MOTION** by Boots, seconded by Weis to approve the site plan for Ideal Weddings and Events for construction of a 13,000 sq. ft. building on Lot 4, Block 2, Bakker Landing Addition. All members voted AYE.

**SITE PLAN.** Kevin presented and recommended approval of a site plan for a 7,200 sq. ft. cold storage accessory building in Kerslake Industrial Park. **MOTION 19-82. MOTION** by Weis, seconded by Munson to recommend to Lincoln County, approval of the site plan for Lundin Properties, LLC, for construction of a 7,200 sq. ft. cold storage building on Lot 4A, Block 5, Kerslake 2<sup>nd</sup> Addition. All members voted AYE.

**SEASONAL EMPLOYEES. MOTION 19-83. MOTION** by Weis, seconded by Munson to approve hiring the following summer seasonal individuals. All members voted AYE.

- POOL MANAGER – Donna Howes \$18.70 per hour
- ASST POOL MANAGER/SUB – Leah Howes \$12.50 per hour
- WSI LIFEGUARDS \$11.00 per hour
  - Brayden Thompson
  - Logan Fischer
  - Leah Howes (sub)
- LIFEGUARD \$10.25 per hour
  - Emma Roths
  - Cari Hansen
  - Emma Kint
  - Jack Hilt
  - Haidyn DeJean
  - Peyton Thompson
  - Lexi Coy
  - Dylan Pence
  - Megan Stadtfeld
  - Bailey Conrad
  - Desirae Patzwald
  - Erika Kint
  - Karly Garry
  - Brooklyn Willemsen
- CASHIER/SLIDE ATTENDANT \$9.75 per hour

- Madyson Redday
- Nate Blegen
- Jon Heidinger
- Jaeya Jones
- Katie Hayworth
- PARKS/MAINTENANCE
  - Trevor Welch \$10.75 per hour
  - Riley Schnider \$10.75 per hour
  - Rick Baker \$16.50 per hour

**SALES TAX BOND RESOLUTION.** This resolution is for repayment of the 93<sup>rd</sup> St. Sanitary Sewer Extension Project. **RESOLUTION 19-05-11. MOTION 19-84. MOTION** by Weis, seconded by Ortmeier to approve the Resolution Authorizing The Execution, Terms, Issuance, Sale and Payment of Sales Tax Revenue Bonds in the Aggregate Principal Amount of not to Exceed Two Million Five Thousand Dollars (\$2,005,000), for the Purpose of Financing the Cost of Capital Improvements, Fund a Reserve Account and Pay Costs of Issuance. All members voted AYE. The ordinance will be published separately.

**93<sup>rd</sup> ST. SANITARY SEWER PROJECT PAY APPLICATION. MOTION 19-85. MOTION** by Weis, seconded by Ortmeier to approve 93<sup>rd</sup> St. Sanitary Sewer Extension Project Pay Application 1 to Metro Construction in the amount of \$586,352.93. All members voted AYE.

**PROPERTY TAX ABATEMENTS. MOTION 19-86. MOTION** by Erck, seconded by Ortmeier to approve the following tax abatements. All members voted AYE.

- Tea Development LLC – platted street, Carl W. Soukups Add. Tract 2 \*ex lots sold and platted streets\*, \$734.70.
- Tea Development LLC – platted street, Carl W. Soukups Add., Tract 1 \*ex lots sold and platted streets\*, \$341.29.
- Richard Peters, error in discretionary formula, Howling Ridge Add, Lot 2E, Block 10, \$3,482.16.
- Richard Peters, error in discretionary formula, Howling Ridge Add., Lot 2D, Block 10, \$3,482.19.
- Roger Gehle, error in discretionary formula, Howling Ridge Add., Lot 4, Block 13, \$4,497.84.

**MOTION 19-87. MOTION** by Weis, seconded by Ortmeier to adjourn at 8:06 pm. All members voted AYE.

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John M. Lawler, Mayor

ATTEST:

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Dawn R. Murphy, Finance Officer

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**CITY OF TEA  
 WARRANTS PAID MAY 6, 2019**

	<b>LEGISLATIVE 4111</b>	
Independent Publishing	Publishing	287.38
	<b>FINANCE 4142</b>	
Aflac	Insurance	356.46
Innovative Office Solutions	1/3 office supplies	129.46
KCL Group Benefits	Insurance	323.50
SD Governmental Finance Officer Assoc.	2019 Conference	75.00
SE Area Finance Officers Group	2019 dues	30.00
Wellmark	Insurance	6,085.77
	<b>ELECTION 4130</b>	
Independent Publishing	Publishing	72.03
	<b>ENGINEERING 4196</b>	
HDR Engineering	General	1,888.78
HDR Engineering	P & Z	3,560.00
HDR Engineering	Streets-traffic signal issues	720.00
	Drainage- Evaluation of Drainage master	
HDR Engineering	plan	1,221.82
HDR Engineering	Bike Path	240.00
HDR Engineering	S. Main Ave. - Final Plans	8,747.50
HDR Engineering	468th Ave. Improvements	1,380.00
HDR Engineering	Hagedorn Industrial Park - project costs	1,200.00
HDR Engineering	GIS mapping	(419.13)
HDR Engineering	Gateway Blvd	2,792.50
	272nd St. Improvements - data conversion to	
HDR Engineering	new software	260.00
	<b>LIBRARY 4550</b>	
Barnes & Nobel	Books	94.45
Independent Publishing	Bound paper book	180.00
Over Drive	Digital book membership	1,500.00
	<b>PLANNING &amp; ZONING 4650</b>	
Code Works	Review MBI Plans	747.00
Code Works	Review Schwartzle Apt. plans	312.00
Independent Publishing	Publishing	29.30
Lincoln County Register of Deeds	File plats, annexations	245.00
Odland, Tim	Feb-Apr Inspections	3,350.00
Robertson, Steve	April inspections	950.00

**GOVERNMENT BUILDINGS 4192**

A & B Business Solutions	Copy maintenance	5.36
Ace Hardware	Supplies	118.91
Hander Inc.	Repair boilers	359.01
Marco	Copy maintenance	314.50
Mid American Energy	200 W. Maple	115.16
Mid American Energy	Maint bldg.	152.86
Mid American Energy	City Hall	341.18
Olson, Joann	Cleaning City Hall	140.00
Riteway Business Forms	Checks	171.97
Sorlien Electric	Garage door opener	94.37
U Drive Technology	Monthly texting	50.00
Xcel Energy	City Hall	830.99
Xcel Energy	200 W. Maple	133.21
Xcel Energy	Maint bldg.	129.81

**PUBLIC SAFETY 4210**

Ace Hardware	Supplies	55.12
Anderson, Darla	Cleaning	50.00
Green Eggs & Ram	Backup	17.52
Mid American Energy	Services	89.05
Quigley, Jessica	Reimburse for Chief convention & fire wall	794.86
Waller, Martin	Training	43.04
Xcel Energy	Siren	18.01

**HIGHWAY/STREET 4312**

Cenex Credit Card	Gasoline	104.53
Concrete Materials	Sandbag sand	172.63
Murphy, Dawn	Mileage to Pierre for Build Grant meeting	305.79
Ramkota	Street conference	112.00

**PARKS/RECREATION 4501**

EnviroMaster Inc.	Towels	31.45
Lacey Rentals	Toilets	210.00
Ross & Barr	Park shelter	9,654.00
The Tessman Co	Quick dry & fertilizer	1,561.40
Xcel Energy	Ball field lights	966.62

**WATER 601**

Cenex Credit Card	Gasoline	104.53
City of Sioux Falls	Bact. samples	217.50
Dakota Supply Group	Curb stop lids	211.40
Getty Abstract & Title Co.	Meter building land	135,235.50
HDR Engineering	85th St. meter building	6,775.20
Independent Publishing	Meter building bids	62.79
Innovative Office Solutions	1/3 office supplies	129.46

Lewis & Clark Regional Water	8,164,005 April usage	19,818.00
Lewis & Clark Regional Water	Meter building expenses	482.79
Metering & Technology Solutions	Endpoint key fob	138.92
Metering & Technology Solutions	Becon program	5,500.00
SD Dept. of Environment & Natural Resources	85th St. meter building Storm Water Discharge Permit	100.00
SD One Call	1/2 locates	35.28
Xcel Energy	Rural Water	13.86
Xcel Energy	Brian St. Tower	74.42
Xcel Energy	2nd St. Tower	12.66

**SEWER 604**

American Engineering Testing	Lagoon samples	324.00
Cenex Credit Card	Gasoline	104.51
Dakota Supply Group	Pump & impellers	10,204.83
HDR Engineering	Aeration plans	2,612.50
HDR Engineering	93rd St. Sewer	5,811.19
Independent Publishing	Aeration bids	44.25
Innovative Office Solutions	1/3 office supplies	129.44
SD One Call	1/2 locates	35.28
Xcel Energy	S. lift station	695.23
Xcel Energy	5th St. lift station	125.15
Xcel Energy	Lagoon Building	1,679.33

**3RD PENNY/POOL/PARK EXPENSES 211**

Ace Hardware	Supplies	13.99
Menards	Pool sump pump	144.47
Mid American Energy	Services	15.00
Xcel Energy	Pool	189.70

**SPECIAL PARK FUND 201**

Ace Hardware	Marking paint	180.92
Hauff Mid America Sports	Softball uniforms	42.80
Independent Publishing	Eggstravaganza	187.00
Lacey's	Toilets	210.00
Portner, Jeff	Reimburse for batting helmets	371.42

**271ST ST. CAPITAL PROJECT**

Meierhenry Sargent LLP	Special assessment bond counsel	4,500.00
Meierhenry Sargent LLP	Sales tax revenue bon counsel	5,325.00

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255,360.49

DEPARTMENT	GROSS			TOTAL
	PAY	SS/MED	RETIRMENT	
Legislative 4111	4,710.00	360.34		5,070.34
Executive 4121	3,000.00	229.50		3,229.50
Administrator 4122	6,807.56	471.04	408.46	7,687.06
Finance 4142	7,153.00	547.21	429.17	8,129.38
Public Safety 4210	29,049.03	2,098.50	2,291.64	33,439.17
Highway/Streets 4311	7,786.54	587.37	341.97	8,715.88
Recreation 4501	1,729.01	126.07	103.74	1,958.82
Planning & Zoning 4650	5,654.34	427.72	339.26	6,421.32
Water Distribution 4334	5,699.29	427.69	341.97	6,468.95
Water Clerk 4335	864.51	63.02	51.87	979.40
Sewer Administration 4321	5,701.03	427.87	342.04	6,470.94
Sewer Sanitary Clerk 4322	864.49	63.01	51.87	979.37
<b>TOTAL APRIL PAYROLL</b>	<b>79,018.80</b>	<b>5,829.34</b>	<b>4,701.99</b>	<b>89,550.13</b>

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**CITY OF TEA  
RESOLUTION NO. 19-05-11**

**RESOLUTION AUTHORIZING THE EXECUTION, TERMS, ISSUANCE, SALE AND PAYMENT OF SALES TAX REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION FIVE THOUSAND DOLLARS (\$2,005,000), FOR THE PURPOSE FINANCING THE COST OF CAPITAL IMPROVEMENTS, FUND A RESERVE ACCOUNT AND PAY COSTS OF ISSUANCE.**

WHEREAS, the City of Tea is authorized by the provisions of SDCL §10-52-2.10 to issue bonds;

WHEREAS, the City of Tea pursuant to the provisions of Chapter 13 of the Code of Ordinances of the City of Tea, South Dakota levies non-ad valorem tax; and

WHEREAS, the City Council has determined and does hereby declare that is necessary and in the best interest of the City to issue Sales Tax Revenue Bonds for the purpose of providing funds to (1) construct the 93<sup>rd</sup> Street Sanitary Sewer extension project; (2) fund a reserve account; and (3) pay the costs of issuance of the Bonds described herein.

WHEREAS, the City Council has determined that the issuance of Sales Tax Revenue Bonds of the City is in the best interests of City; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEA OF LINCOLN COUNTY, AS FOLLOWS:**

**ARTICLE I  
DEFINITIONS**

**Section 1.1. Definition of Terms.**

In addition to the words and terms elsewhere defined in this Bond Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings, unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" means collectively SDCL Chapter 6-8B and Chapter 10-52, as amended.

"Authorized Officer of the City" means the Mayor and the Finance Officer, or, in the case of any act to be performed or duty to be discharged, any other member, officer, or employee of the City then authorized to perform such act or discharge such duty.

"Bonds" mean not to exceed \$2,005,000, plus Cost of Issuance, in aggregate principal amount of Sales Tax Revenue Bonds, Series 2019A, dated the Closing Date, or such other designation or date as shall be determined by the City Council and issued pursuant to Section 8.1 hereof, and under the Bond Resolution.

"Bond Counsel" means Meierhenry Sargent LLP, a firm of attorneys recognized as having experience in matters relating to the issuance of state or local governmental obligations.



"Bondholder", "Holder" and "Registered Owner" means the registered owner of a Bond, including any nominee of a Depository.

"Bond Payment Date" means such dates set forth in the Bond Purchase Agreement.

"Bond Purchase Agreement" means the agreement between the City and the Purchaser for the purchase of the Bonds.

"Bond Resolution" means the within Resolution, duly adopted by the City Council on the date hereof, as it may be amended from time to time.

"Book-Entry Form" or "Book-Entry System" means a form or system, as applicable, under which physical bond certificates in fully registered form are issued to a Depository or to its nominee as Registered Owner, with the certificated Bonds being held by and "immobilized" in the custody of such Depository, and under which records maintained by persons, other than the City or the Registration Agent, constitute the written record that identifies, and records the transfer of the beneficial "book-entry" interests in those Bonds.

"Bond Payment Date" means each date on which interest, or both principal and interest, shall be payable on the Bonds so long as any of the Bonds shall be outstanding.

"Capital Project" means the construct the 93<sup>rd</sup> Street Sanitary Sewer extension project located in the City of Tea.

"City Finance Officer" means the City Finance Officer of the City appointed pursuant to the provisions of South Dakota Codified Laws Title 9 or, in the absence of such appointment or in the event the person so appointed is unable or incapable of acting in such capacity, the person appointed by the City Council to perform the duties otherwise performed by the City Finance Officer, or his/her designee.

"City" means the City of Tea, Lincoln County, South Dakota, a municipality organized under the State of South Dakota.

"City Council" means the City Council of the City of Tea, Lincoln County, South Dakota.

"Closing Date" means the date the Bonds are exchanged for value.

"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.

"Costs of Issuance" means all costs, fees, charges and expenses incurred in connection with the issuance of the Bonds, including costs for including Underwriter's Discount not exceeding 2% of the principal amount of the Bonds, bond insurance and rating agency fees.

"Debt" means (1) indebtedness of the City for borrowed money or for the deferred purchase price of property or services, and expressly including the obligation to pay principal and interest on or with respect to revenue bonds, (2) the obligation of the City as lessee under leases which should be recorded as capital leases under generally accepted accounting principles, and (3) obligations of the City under direct or indirect guarantees in respect of, and obligations, contingent or otherwise, to purchase or otherwise acquire, or otherwise to assure a

creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in subdivisions (1) and (2) above.

"Depository" means any securities depository that is a clearing agency under federal laws operating and maintaining, with its participants or otherwise, a Book-Entry System, including, but not limited to DTC.

"DTC" means the Depository Trust Company, a limited purpose company organized under the laws of the State of New York, and its successors and assigns.

"DTC Participant(s)" means securities brokers and dealers, banks, trust companies and clearing corporations that have access to the DTC system.

"Finance Officer" means the Finance Officer of the City appointed pursuant to the provisions of South Dakota Codified Laws Title 9 or, in the absence of such appointment or in the event the person so appointed is unable or incapable of acting in such capacity, the person appointed by the Mayor and approved by the City Council to perform the duties otherwise performed by the Finance Officer, or his/her designee.

"Interest Payment Dates" means the dates set forth in the Bond Purchase Agreement.

"Letter of Representation" means the Blanket Issuer Letter of Representations to DTC of the City.

"Mayor" means the Mayor elected pursuant to the provisions of SDCL § 9-8-1 or his or her designee acting on his or her behalf.

"Minimum Reserve" means the lesser of (i) 10% of the original principal amount of, (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 Revenues.

"Official Statement" and "Preliminary Official Statement" means that Official Statement and Preliminary Official Statement described in Section 8.2 hereof pertaining to the sale of the Bonds.

"Original Issue Discount or OID" means an amount by which the par value of a security exceeds its public offering price at the time of its original issuance.

"Original Issue Premium or OIP" means the amount by which the public offering price of a security at the time of its original issuance exceeds its par value.

"Outstanding," "Bonds Outstanding," or "Outstanding Bonds" means, as of a particular date all Bonds issued and delivered under this Bond 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 Bond 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 purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, 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 under the provisions of Article VII of 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.

"Outstanding Parity Bonds" means any bonds payable from the Pledged Revenue.

"Paying Agent" means The First National Bank in Sioux Falls, Sioux Falls, South Dakota or its successor or successors hereafter appointed in the manner provided in Article VI hereof.

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

"Pledged Revenues" means the Sales Tax collected.

"President" means the President of the City Council who may act for the Mayor in the absence of the Mayor.

"Purchase Agreement" means the Bond Purchase Agreement authorized pursuant to and described in Section 8.1 hereof by and between the City and the Purchaser.

"Rating Agency" means one or more of the following rating agencies: Standard & Poor's Credit Rating Services, Moody's Investors Service Inc. and Fitch IBCA, Inc.

"Record Date" means the such dates set forth in the Bond Purchase Agreement.

"Registration Agent" means The First National Bank in Sioux Falls, Sioux Falls, South Dakota, its successor or successors, hereafter appointed in the manner provided in Article VI hereof.

"Resolution" means this Bond Resolution.

"Reasonably Required Reserve" means an amount, if required, which will comply with the Internal Revenue Regulations specifying the maximum amount in a reserve fund permitted to be invested without regard to investment yield.

"Sales Tax" means the gross receipts of all persons engaged in business within the jurisdiction of the City who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL Ch. 10-45 and two percent upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL Ch. 10-46 imposed by Ordinance 150 of the City of Tea Code of Ordinances.

"Schedule" means the principal and interest payment schedule for the Bonds.

"Underwriter" means Dougherty & Company LLC, acting for and on behalf of itself and such securities dealers as they may designate.

## **Section 1.2. References to Resolution.**

The words "hereof", "herein", "hereunder", and other words of similar import refer to this Bond Resolution as a whole.

**Section 1.3. References to Articles, Sections, Etc.**

References to Articles, Sections, and other subdivisions of this Bond Resolution are to the designated Articles, Sections, and other subdivisions of this Bond Resolution as originally adopted.

**Section 1.4. Headings.**

The headings of this Bond Resolution are for convenience only and shall not define or limit the provisions hereof.

**ARTICLE II**  
***FINDINGS***

**Section 2.1**

It is hereby found, and declared that:

- (a) There is a necessity to issue the Bonds;
- (b) that all limitations upon the issuance of Bonds have been met; and
- (c) that the Bonds are being authorized, issued and sold in accordance with the provisions of the Act.

### **ARTICLE III**

#### ***AUTHORITY, PLEDGE, LEVY AND ACCOUNTS***

##### **Section 3.1 Authority and Purpose.**

The City is authorized pursuant to Act and Code of Ordinances of the City of Tea, South Dakota, 1990 § 3-3-108 to issue the Bonds, the proceeds of which will be used to (1) construct the 93<sup>rd</sup> Street Sanitary Sewer extension project; (2) fund a reserve account; and (3) pay the costs of issuance of the Bonds described herein. The Bonds shall be issued in the aggregate principal amount as finalized by the Bond Purchase Agreement pursuant to, and in accordance with, the provisions of the Act, the Bond Resolution, and other applicable provisions of law.

##### **Section 3.2 Pledge of Sales Tax.**

The Sales Tax shall be and is hereby irrevocably pledged to the prompt and full payment of the principal, premium and interest on each and all of said Bonds as such principal, premium and interest respectively become due.

##### **Section 3.3. Collection of Taxes.**

Pursuant to SDCL § 10-52-2.10, the City does hereby pledge, provide and agree that it will continue to impose and collect the non-ad valorem tax so long as the Bonds are outstanding. The governing body shall also pledge so much of the collections of the taxes as may be necessary to pay the principal, premium and interest on the bonds and to maintain any debt service reserve established for the Bonds.

##### **Section 3.4. Accounts.**

(a) Sales Tax Fund. The Finance Officer has established and will maintain the Sales Tax Revenue Fund as a separate and special account in the financial records of the City until all Bonds issued and made payable therefrom, and interest due thereon, have been duly paid or discharged. All collections of the Sales Tax shall be credited, as received, to the Sales Tax Revenue Fund. Within the Sales Tax Revenue Fund are various separate accounts to be maintained by the City.

(b) Construction Account. There is hereby created and established a "Construction Account" There shall be credited to the Construction Account the proceeds from the sale of the Bonds remaining after (a) the deposit to the Reserve Account required by Section 3.05, and (b) payment of the (i) Underwriter's discount, (ii) OID and (iii) any other expenses of issuing the Bonds. All moneys credited to the Construction Account shall be applied solely to the payment of the costs associated with the Capital Project and Costs of Issuance.

(c) Principal and Interest Account. There is hereby created and established a "Principal and Interest Account." Immediately upon delivery of the Bonds, there shall be credited to the Principal and Interest Account the amount of accrued interest received from the Underwriter. Commencing on the date specified in the Bond Purchase Agreement, there shall be withdrawn from the Sales Tax Fund at least monthly and credited to the Principal and Interest Account an amount which will equal at least one-sixth (1/6th) of the interest becoming due on the next succeeding payment date and one-twelfth (1/12th) of the principal becoming due on the next succeeding payment dates with respect to the Outstanding Bonds. In all events there shall be credited to the Principal and

Interest Account amounts sufficient to pay the principal of and interest on the Outstanding Bonds as the same become due.

(d) Reserve Account. If required by the Underwriter or the Underwriter, there is hereby created and established a "Reserve Account." There shall be credited to the Reserve Account from the proceeds of the Bonds, an amount equal to the Reserve Requirement. Thereafter, in the event that the amount on deposit in the Reserve Account shall thereafter fall below the Reserve Requirement, additional deposits shall be made from the Pledged Revenues to the Reserve Account until the Reserve Requirement is again reached. Upon the issuance of any Parity Bonds, the Reserve Requirement established in this section shall be increased to an amount equal to the combined maximum annual debt service on the Outstanding Bonds and Outstanding Parity Bonds. The balance required shall be funded on the delivery date of the parity lien bonds. Moneys credited to the Reserve Account may be used only for the payment of principal of and interest on the Outstanding Bonds and Outstanding Parity Bonds and shall be used only in the event that there are insufficient moneys in the Principal and Interest Account to meet such principal and interest payments promptly when due. The interest from any investment of the Reserve Account may be transferred from time to time to the Construction Account, provided that after completion of the Capital Project such interest shall be transferred to the Principal and Interest Account. No transfer of investment income shall be made from the Reserve Account at any time when the balance therein is less than the Reserve Requirement. Such investments shall be subject to the limitations of South Dakota law.

(e) Subordinate Lien Bonds. After making the above required payments, any remaining Pledged Revenues may be used for the payment of the principal of and interest on any additional sales tax revenue bonds having a lien which is subordinate to the lien of the Outstanding Bonds, and for a reserve fund as additional security for the payment of such subordinate lien bonds.

(f) Other Expenditures. The remaining Pledged Sales Tax Revenues may be used for any legally authorized purpose.

#### **ARTICLE IV** **FORM, TERMS, EXECUTION, AND TRANSFER OF BONDS**

##### **Section 4.1. Authorized Bonds.**

The aggregate principal amount of Bonds that may be issued under the Bond Resolution shall not exceed Two Million Five Thousand and No/100 Dollars (\$2,005,000), plus costs of issuance, including Underwriter's Discount not exceeding 2% of the principal amount of the Bonds, and fund a reserve account. The Bonds may be privately placed or issued through a public sale. The Mayor and Finance Officer are directed to negotiate the final terms of the Bonds and sale.

##### **Section 4.2. Form of Bonds; Execution.**

(a) The Bonds are issuable only as fully registered Bonds, without coupons in any denomination. All Bonds issued under the Resolution shall be substantially in the form set forth in Exhibit A attached hereto, and by this reference incorporated herein as fully as though copied.

(b) 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.

(c) 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.

#### **Section 4.3 Maturities, Interest Rates, and Certain Other Provisions of Bonds.**

(a) The maturities, interest rates and such other terms as may be required shall be set forth in the Bond Purchase Agreement.

(b) The Bonds shall be designated "Sales Tax Revenue Bonds, Series 2019A," or such other designation as shall be determined by the City Council pursuant to Section 8.1 hereof. The Bonds shall bear interest from their date or from the most recent interest payment date to which interest has been paid or duly provided for, until the principal amount of the Bonds is paid, such interest (computed upon the basis of a 360-day year of twelve 30-day months unless otherwise provided by the Bond Purchase Agreement) being payable on Interest Payment Dates. Interest on each Bond shall be paid by wire transfer, check or draft of the Paying Agent, payable in lawful money of the United States of America, to the person in whose name such Bond is registered at the close of business on the Record Date. The principal of the Bond shall be payable in lawful money of the United States of America at the principal office of the Paying Agent on the Bond Payment Date. Each Bond shall state that it is issued pursuant to the Act.

(c) The Registration Agent shall make all interest payments with respect to the Bonds on each interest payment date directly to the registered owners as shown on the bond registration records maintained by the Registration Agent as of the close of business on the Record Date by wire transfer, check or draft mailed to such owners at their addresses shown on said bond registration records, without, except for final payment, the presentation or surrender of such registered Bonds, and all such payments shall discharge the obligations of the City in respect of such Bonds to the extent of the payments so made. Payment of principal and premium, if any, on the Bonds shall be made upon presentation and surrender of such Bonds to the Registration Agent as the same shall become due and payable.

#### **Section 4.4 Negotiability of Bonds.**

All Bonds issued under this Resolution shall be negotiable, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds.

#### **Section 4.5. Registration, Transfer and Exchange of Bonds.**

(a) The Bonds are transferable only by presentation to the Registration Agent by the registered owner, or his legal representative duly authorized in writing, of the registered bond(s) to be transferred with 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 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 Bonds, 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.

(b) Except as otherwise provided in this subsection or in the Bond Purchase Agreement, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC, which will act as securities depository for the Bonds. References in this Section to a Bond or the Bonds shall be construed to mean the Bond or the Bonds that are held under the Book-Entry System. One Bond for each maturity shall be issued to DTC and immobilized in its custody. Unless otherwise provided herein, a Book-Entry System shall be employed, evidencing ownership of the Bonds in authorized denominations, with transfers of beneficial ownership affected on the records of DTC and the DTC Participants pursuant to rules and procedures established by DTC.

Each DTC Participant shall be credited in the records of DTC with the amount of such DTC Participant's interest in the Bonds. Beneficial ownership interests in the Bonds may be purchased by or through DTC Participants. The holders of these beneficial ownership interests are herein referred to as the "Beneficial Owners." The Beneficial Owners shall not receive the Bonds representing their beneficial ownership interests. The ownership interests of each Beneficial Owner shall be recorded through the records of the DTC Participant from which such Beneficial Owner purchased its Bonds. Transfers of ownership interests in the Bonds shall be accomplished by book entries made by DTC and, in turn, by DTC Participants acting on behalf of Beneficial Owners. **SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE BONDS, THE REGISTRATION AGENT SHALL TREAT CEDE & CO., AS THE ONLY HOLDER OF THE BONDS FOR ALL PURPOSES UNDER THIS RESOLUTION, INCLUDING RECEIPT OF ALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, RECEIPT OF NOTICES, VOTING AND REQUESTING OR DIRECTING THE REGISTRATION AGENT TO TAKE OR NOT TO TAKE, OR CONSENTING TO, CERTAIN ACTIONS UNDER THIS BOND RESOLUTION.**

Payments of principal, interest, and redemption premium, if any, with respect to the Bonds, so long as DTC is the only owner of the Bonds, shall be paid by the Registration Agent directly to DTC or its nominee, Cede & Co., as provided in the Letter of Representation. DTC shall remit such payments to DTC Participants, and such payments thereafter shall be paid by DTC Participants to the Beneficial Owners. Neither the City nor the Registration Agent shall be responsible or liable for payment by DTC or DTC Participants, for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC or DTC Participants.



In the event that (1) DTC determines not to continue to act as securities depository for the Bonds or (2) the City determines that the continuation of the Book-Entry System of evidence and transfer of ownership of the Bonds would adversely affect their interests or the interests of the Beneficial Owners of the Bonds, the City may discontinue the Book-Entry System with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City shall cause the Registration Agent to authenticate and deliver replacement Bonds in the form of fully registered Bonds to each Beneficial Owner.

NEITHER THE CITY NOR THE REGISTRATION AGENT SHALL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO ANY DTC PARTICIPANT OR ANY BENEFICIAL OWNER WITH RESPECT TO (i) THE BONDS; (ii) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (iii) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; (iv) THE DELIVERY OR TIMELINESS OF DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE DUE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS BOND RESOLUTION TO BE GIVEN TO BENEFICIAL OWNERS, (v) THE SELECTION OF BENEFICIAL OWNERS TO RECEIVE PAYMENTS IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE BONDS; OR (vi) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC, OR ITS NOMINEE, CEDE & CO., AS OWNER.

SO LONG AS A BOOK-ENTRY SYSTEM OF EVIDENCE OF TRANSFER OF OWNERSHIP OF ALL THE BONDS IS MAINTAINED IN ACCORDANCE HEREWITH, THE PROVISIONS OF THIS RESOLUTION RELATING TO THE DELIVERY OF PHYSICAL BOND CERTIFICATES SHALL BE DEEMED INAPPLICABLE OR BE OTHERWISE SO CONSTRUED AS TO GIVE FULL EFFECT TO SUCH BOOK-ENTRY SYSTEM. IF THE PROVISIONS OF THE LETTER OF REPRESENTATION SHALL BE IN CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION AS SAID PROVISIONS RELATE TO DTC, THE PROVISIONS OF THE LETTER OF REPRESENTATION SHALL CONTROL.

#### **Section 4.6. Mutilated, Lost, Stolen, or Destroyed Bonds.**

- (a) In the event any Bond is mutilated, lost, stolen, or destroyed, the City may execute, and upon the request of an Authorized Officer 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.

- (b) 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 Bond Resolution equally and proportionately with any and all other Bonds duly issued under this Bond Resolution.
- (c) 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.

#### **Section 4.7 Authentication.**

The Registration Agent is hereby authorized to authenticate and deliver the Bonds to the Underwriter 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.

#### **Section 4.8. Qualification for DTC.**

The Registration Agent is hereby authorized to take such actions as may be necessary from time to time to qualify and maintain the Bonds for deposit with DTC, including but not limited to, wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by the DTC (or any of its designees identified to the Registration Agent) by overnight delivery, courier service, telegram, telecopy or other similar means of communication. No such arrangements with DTC may adversely affect the interest of any of the Owners of the Bonds, provided, however, that the Registration Agent shall not be liable with respect to any such arrangements it may make pursuant to this section.

#### **Section 4.09. Rating Agency.**

The City authorized to enter into an agreement with a Rating Agency as may be required under the Purchase Agreement. Any terms or conditions of the Rating Agency shall be attached to this resolution and incorporated herein as if stated in full.

#### **Section 4.10. Bond Counsel.**

The Mayor and Finance Officer are authorized to retain Meierhenry Sargent LLP as Bond Counsel upon such terms as they approve.

#### **Section 4.11. Underwriter.**

The Mayor and Finance Officer are authorized to retain Dougherty & Company LLC as Underwriter upon such terms as they approve.

**Section 4.12. Dissemination Agent.**

The City authorizes the Authorized Officer of the City to retain a dissemination agent with regard to the written undertaking authorized in Section 9.7 hereof.

**ARTICLE V  
REDEMPTION OF BONDS PRIOR TO MATURITY**

**Section 5.1 Redemption.**

The Bonds shall be redeemable as set forth in the Bond Purchase Agreement.

**ARTICLE VI  
REGISTRATION AGENT**

**Section 6.1. Appointment and Acceptance of Duties.**

(a) The City hereby authorizes the Finance Officer to appoint the Registration Agent with respect to the Bonds and authorizes and directs the Registration Agent to maintain bond registration records with respect to the Bonds, to authenticate and deliver the Bonds as provided herein, either at original issuance, upon transfer, or as otherwise directed by the City, to effect transfers of the Bonds, to give all notices of redemption as required herein, to make all payments of principal and interest with respect to the Bonds as provided herein, to cancel and destroy Bonds which have been paid at maturity or upon earlier redemption or submitted for exchange or transfer, to furnish the City at least annually a certificate of destruction with respect to Bonds canceled and destroyed, and to furnish the City at least annually an audit confirmation of Bonds paid, Bonds Outstanding and payments made with respect to interest on the Bonds. The Mayor and the Finance Officer, or either of them is hereby authorized to execute and the Finance Officer is hereby authorized to attest such written agreement between the City and the Registration Agent as they shall deem necessary or proper with respect to the obligations, duties and rights of the Registration Agent. The payment of all reasonable fees and expenses of the Registration Agent for the discharge of its duties and obligations hereunder or under any such agreement is hereby authorized and directed.

**Section 6.2. Permitted Acts and Functions.**

The Registration Agent may become the Owner of any Bonds, with the same rights as it would have if it were not a Registration Agent. The Registration Agent may act as a purchaser or fiscal agent in connection with the sale of the Bonds or of any other securities offered or issued by the City.

**Section 6.3. Resignation or Removal of the Registration Agent and Appointment of Successors.**

(a) The Registration Agent may at any time resign and be discharged of the duties and obligations created by the Bond Resolution by giving at least sixty (60) calendar days' written notice. The Registration Agent may

be removed at any time by the City, provided that such removal does not constitute a breach of any contractual agreement with any such Registration Agent, by filing written notice of such removal with such Registration Agent. Any successor Registration Agent shall be appointed by the Finance Officer and shall be a trust company or a bank having the powers of a trust company, having a combined capital, surplus, and undivided profits aggregating at least Seventy-Five Million Dollars (\$75,000,000), willing to accept the office of Registration Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Bond Resolution.

(b) In the event of the resignation or removal of the Registration Agent, such Registration Agent shall pay over, assign and deliver any monies and securities held by it as Registration Agent, and all books and records and other properties held by it as Registration Agent, to its successor, or if there be no successor then appointed, to the Finance Officer until such successor be appointed.

#### **Section 6.4. Merger or Consolidation of Registration Agent.**

Any corporation or association into which the Registration Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation, or transfer to which it is a party shall be and become successor Registration Agent hereunder and shall be vested with all the trusts, powers, discretion, immunities, privileges, and other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein contained to the contrary notwithstanding. Upon any such conversion, merger, consolidation, sale or transfer, the Finance Officer shall have the right and option, upon notice to such converted, merged, consolidated or acquiring entity, to remove such entity and appoint a successor thereto pursuant to the procedures and requirements set forth in Section 6.3 hereof.

### **ARTICLE VII ADDITIONAL BONDS**

The City may issue additional bonds (the "Parity Bonds") payable from the Pledge Revenues and having a lien upon such revenues on a parity with the Bonds and the Outstanding Parity Bonds providing that:

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.
2. the City is in compliance with all covenants of Outstanding Parity Bonds and
3. (A) the Pledged Revenues collected in the last preceding fiscal year (as determined by the City) are sufficient to cover 1.25 times the combined average annual principal and interest requirements on the Outstanding Bonds then outstanding and the proposed parity lien bonds, or  
(B) the estimated Pledged Revenues to be collected in the fiscal year in which the proposed parity lien bonds will be issued shall be at least equal to 1.25 times the combined average annual principal and interest requirements of the Outstanding Bonds then outstanding and the proposed parity lien bonds.

## **ARTICLE VIII**

### ***SALE OF BONDS AND DEPOSIT OF PROCEEDS***

#### **Section 8.1. Sale of Bonds.**

The Bonds shall be sold to the Underwriter at a price to be set forth in the Bond Purchase Agreement. The Mayor and the Finance Officer, or either of them, in consultation with the Underwriter, 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 the Underwriter, 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 form of the bond set forth in Exhibit A attached hereto shall be conformed to reflect any changes, if any, as hereinbefore mentioned. The Mayor and the City Finance Officer, or either of them, are hereby authorized to execute and the City Finance Officer is authorized to attest the Bond Purchase Agreement with the Underwriter providing for the purchase and sale of the Bonds. The Bond Purchase Agreement shall be in form and content acceptable to the Mayor and City Finance Officer, the execution thereof by either of them to constitute conclusive evidence thereof; provided the Bond Purchase Agreement effects the sale of the Bonds in accordance with the provisions of this Resolution, and is not inconsistent with the terms hereof. The Mayor and the City Finance Officer are authorized to cause the Bonds to be authenticated and delivered by the Registration Agent to the Underwriter and to execute, publish, and deliver all Bonds, documents, including the Official Statement and closing documents as they shall deem necessary in connection with the sale and delivery of the Bonds.

#### **Section 8.2. Official Statement.**

If the Bonds are sold to the Underwriter, the Mayor, 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.

#### **Section 8.3. Disposition of Bond Proceeds.**

The proceeds of the sale of the Bonds shall be deposited in the General Fund. The proceeds shall be used for Capital Project and Costs of Issuance and shall be evidenced on the books of the City.

#### **Section 8.4. Tax Matters.**

- (a) The City covenants and agrees with the registered owners from time to time of the Bonds 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 Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the basic interest on the Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.
- (b) The Mayor and the Finance Officer, being the officers of the City charged with the responsibility for issuing the Bonds pursuant to this Resolution are hereby authorized and directed to execute and deliver to the Underwriter thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds, it is reasonably expected that the proceeds of the Bonds will be used in a manner that would not cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.
- (c) The City shall file with the Secretary of the Treasury a statement concerning the Bonds containing the information required by Section 149(e) of the Code.
- (d) Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The City hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265 (b) (3) of the Code and including "qualified 501 (c)(3) Bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the City and all "subordinate entities" of the City in 2019 in an amount greater than \$10,000,000.

#### **ARTICLE IX MISCELLANEOUS**

##### **Section 9.1. Failure to Present Bonds.**

- (a) Subject to the provisions of Section 4.7 hereof, in the event any Bond shall not be presented for payment when the principal or redemption price hereof becomes due, either at maturity or at the date fixed for prior redemption thereof or otherwise, and in the event monies sufficient to pay such Bond shall be held by the Registration Agent for the benefit of the Owner thereof, all liability of the City to such Owner for the payment of such Bond shall forthwith cease, determine, and be completely discharged. Whereupon, the Registration Agent shall hold such monies, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such monies for any claim under the Resolution or on, or with respect to, said Bonds.
- (b) If any Bond shall not be presented for payment within a period of five years following the date when such Bond becomes due, whether by maturity or otherwise, the Registration Agent shall, subject to the provisions of any applicable escheat or other similar law, pay to the City any monies then held by the

Registration Agent for the payment of such Bond and such Bond shall (subject to the defense of any applicable statute of limitation) thereafter constitute an unsecured obligation of the City.

### **Section 9.2. Payments Due on Saturdays, Sundays, and Holidays.**

In any case where the date of maturity or interest on or principal of any Bond, or the date fixed for redemption of any Bond, shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions similar to the Registration Agent are authorized by law to close, then the payment of the interest on, or the principal, or the redemption price of, such Bond need not be made on such date but must be made on the next succeeding day not a Saturday, Sunday, or a legal holiday or a day upon which banking institutions similar to the Registration Agent are authorized by law to close, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

### **Section 9.3. Miscellaneous Acts.**

The appropriate officers of the City are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, and certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may, in their discretion, be necessary or desirable to implement or comply with the intent of the Bond Resolution, or any of the documents herein authorized and approved, or for the authorization, issuance, and delivery by the City of the Bonds.

### **Section 9.4. Amendment.**

The City Council is hereby authorized to make such amendments to the Bond Resolution as will not impair the rights of the Bondholders.

### **Section 9.5. No Recourse Under Bond Resolution or on Bonds.**

All stipulations, promises, agreements, and obligations of the City contained in the Resolution or any supplemental resolutions shall be deemed to be the stipulations, promises, agreements, and obligations of the City and not of any officer, director, or employee of the City in his or her individual capacity, and no recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on the Resolution against any officer, director, or employee of the City or against any official or individual executing the Bonds.

### **Section 9.6. Partial Invalidity.**

If any one or more of the provisions of the Bond Resolution, or of any exhibit or attachment thereto, 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, or of any exhibit or attachment thereto, but the Bond Resolution, and the exhibits and attachments thereto, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

**Section 9.7. Continuing Disclosure.**

If publicly sold, 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 Bonds. The Mayor is authorized to execute at the Closing of the sale of the Bonds, an agreement for the benefit of and enforceable by the owners of the 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 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 9.8. Post Issuance Compliance.**

The City does hereby adopt Meierhenry Sargent Post-Issuance Compliance Policy and Tax-Advantaged Obligations and Continuing Disclosure with regard to the Bonds attached hereto. The City appoints the Finance Officer as its chief post issuance compliance officer.

**Section 9.9. Conflicting Resolutions Repealed.**

All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

**Section 9.10. Effective Date.**

This Bond Resolution shall take effect 20 days after publication if not referred to a vote of the public.



Said motion was seconded by Member Ortmeier and upon vote being taken the following voted AYE:  
Munson, Erck, Ortmeier, Voelker, Weis & Boots.

---

and the following voted NAY: None.

whereupon said motion was declared duly passed and adopted and was signed and attested by the Mayor and Finance Officer.

ATTEST:

\_\_\_\_\_  
John M. Lawler, Mayor

\_\_\_\_\_  
Dawn R. Murphy, Finance Officer

EXHIBIT A-(FORM OF BOND)

UNITED STATES OF AMERICA  
STATE OF SOUTH DAKOTA  
CITY OF TEA  
LINCOLN COUNTY, SOUTH DAKOTA  
SALES TAX REVENUE BONDS, SERIES 2019A

REGISTERED

REGISTERED

No.	<u>Interest Rate</u> %	<u>Maturity Date</u>	<u>Bond Date</u>	\$
Registered Owner:	Cede & Co. 55 Water Street, 1 <sup>st</sup> Floor. New York, New York 10041 Tax ID #13-2555119			.00

Principal Amount: **AND NO\100 DOLLARS**

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THE CERTIFICATE SET FORTH ON THE FOLLOWING PAGES, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH AT THIS PLACE.

It is hereby certified and recited that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this Bond did exist, have happened, been done and performed in regular and due form and time as required by law.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until it shall have been authenticated by the execution by the Registration Agent of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City has caused this Bond to be signed by the manual or facsimile signature of its Mayor of the City and to be countersigned by the manual or facsimile signature of its City Finance Officer all as of the Bond Date specified above.

ATTEST: City of Tea, South Dakota  
By:

City Finance Officer

Mayor

COUNTERSIGNED:

Resident Attorney

CERTIFICATE OF AUTHENTICATION

This bond is a bond of the series designated therein and has been issued under the provisions of the within-mentioned Resolution and the date of its authentication is \_\_\_\_\_, 2019.

Bond Registration Agent and Paying Agent

By: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the City of Tea, Lincoln County, South Dakota, (the "City") hereby acknowledges itself to owe and for value received promises to pay the Principal Amount, to the Registered Owner mentioned above in lawful money of the United States of America, together with interest thereon from the Bond Date mentioned above at the Interest Rate mentioned above. The interest hereon is payable \_\_\_\_\_ and semiannually thereafter on \_\_\_\_\_ and \_\_\_\_\_ in each year to maturity or earlier redemption by wire transfer, check or draft mailed to the Registered Owner at its address as it appears on the Bond registration books of the City maintained by \_\_\_\_\_, South Dakota, as Bond Registration Agent and paying agent (the "Registration Agent"), on the close of business on the \_\_\_\_\_ day (whether or not a business day) of the calendar month next preceding such interest payment date (the "Record Date"). The principal hereof due at maturity or upon redemption prior to maturity is payable at the office of Registration Agent upon presentation and surrender of this Bond at maturity or upon earlier redemption. The principal of, premium (if any) and interest on this Bond is payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

This Bond is one of an authorized issue of Bonds limited in aggregate principal amount to a maximum of \$\_\_\_\_\_ (the "Bonds") the proceeds of this issue (Series 2019A) will be used for the purpose of (1) constructing the 93<sup>rd</sup> Street Sanitary Sewer extension project; (2) fund a reserve account; and (3) pay the costs of issuance of the Bonds described herein, pursuant to a resolution duly and regularly adopted by the City (the "Bond Resolution"), and are subject to all the provisions and limitations of the Resolution and Chapters 10-52 and 6-8B, South Dakota Codified Laws, as amended. The City has pledged and agreed to collect, so long as the Bonds are outstanding, non-ad valorem tax (the "Sales Tax") in an amount sufficient to pay principal, premium and interest when due on the Bonds.

#### [Redemption Provisions]

This Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the office of the Bond Registration Agent in \_\_\_\_\_, South Dakota, but only in the manner, subject to the limitations and upon payment of the charges provided in the Bond Resolution, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefore.

#### [Reserve Requirement]

The City and the Bond Registration Agent may deem and treat the registered holder hereof as the absolute owner hereof and neither the City nor the Bond Registration Agent shall be affected by any notice to the contrary.

**Additional Debt:** The City may issue additional debt payable from Sales Tax provided (i) the City is current in the payment of principal and interest on the Bonds and is current in the accumulations required for the Principal and Interest Account, (ii) the City is in compliance with the covenants contained in the Resolution, and either (iii) the Sales Tax collected by the City in the last preceding fiscal year (as determined by the City) is sufficient to cover 1.25 times the combined average annual principal and interest requirements on the all Outstanding Bonds, and the proposed parity lien bonds, or (iv) the estimated Sales Tax to be collected in the fiscal year in which the proposed parity lien bonds will be issued shall be at least equal to 1.25 times the combined average annual principal and interest requirements of the Outstanding Bonds and the proposed parity lien bonds.

**Bank Qualification:** The City has in the Resolution designated such issue of Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(III) of the Internal Revenue Code of 1986, as amended.

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BOND OPINION

\$ \_\_\_\_\_

City of Tea  
Lincoln County, South Dakota  
Sales Tax Revenue Bonds, Series 2019A

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Tea (the "Issuer") of \$ \_\_\_\_\_ Sales Tax Revenue Bonds, Series 2019A, dated \_\_\_\_\_, 2019, (the "Bonds"). We have examined such certified proceedings and other papers as we deem necessary to render this opinion.

We have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Official Statement or other offering material relating to the Bonds and we express no opinion relating thereto.

As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify such facts by independent investigation.

Based upon the foregoing, we are of the opinion that, under existing law:

1. The Issuer is duly created and validly existing as a body corporate and politic and public instrumentality of the State of South Dakota with the corporate power to adopt and perform the Resolution and issue the Bonds.

2. Resolution \_\_\_\_\_ has been duly adopted by the Issuer on \_\_\_\_\_, 2019 and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.

3. The Resolution pledges the City's non-ad valorem tax (the "Sales Tax") in an amount sufficient to pay principal, premium and interest when due on the Bonds.

4. The Bonds have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer, payable solely from City's Sales Tax.

5. The interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence are subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986 as amended, that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Issuer has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

6. The Bonds are exempt from all taxation as property by the State of South Dakota, its subdivisions and municipalities and bear interest not includible in the gross income of the recipient for purposes of computing any tax imposed by the provisions of South Dakota law. We express no further opinions regarding other South Dakota tax consequences arising with regard to the Bonds.

7. The Bonds are qualified tax-exempt obligations within the meaning of Section 265(b)(3)(B)(i)(III) of the Code. The Bonds are eligible for purchase by financial institutions.

It is to be understood that the rights of the holders of the Bonds and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity and subject to regulatory requirements under the laws of the United States and of the State of South Dakota.

Meierhenry Sargent LLP

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AS PROVIDED IN THE RESOLUTION REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE RESOLUTION, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE RESOLUTION TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS CERTIFICATE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRATION AGENT. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS CERTIFICATE MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE RESOLUTION.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRATION AGENT FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRATION AGENT FOR PAYMENT OF PRINCIPAL, AND ANY CERTIFICATE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

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(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

**NOTICE:** The signature to this Assignment must correspond with the name as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatever.

## ATTACHMENT TO RESOLUTION

### Post-Issuance Compliance Policy for Tax-Exempt and Tax-Advantaged Obligations and Continuing Disclosure

#### **Definitions**

“Compliance Officer” means the Finance Officer of the Issuer.

“Issuer” means the City of Tea, South Dakota.

#### **Statement of Purpose**

This Post-Issuance Compliance Policy (the "Policy") sets forth specific policies of the Issuer designed to monitor post-issuance compliance:

- (i) with applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations promulgated thereunder ("Treasury Regulations") for obligations issued by the Issuer on tax-exempt or tax-advantaged basis ("Obligations"); and
- (ii) with applicable requirements set forth in certificates and agreement(s) ("Continuing Disclosure Agreements") providing for ongoing disclosure in connection with the offering of obligations to investors ("Offerings"), for obligations (whether or not tax- exempt I tax-advantaged) subject to the continuing disclosure requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934.

This Policy documents practices and describes various procedures and systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations continue to be eligible to be excluded from gross income for federal income tax purposes or that the Obligations continue to receive tax-advantaged treatment. The federal tax law requirements applicable to each particular issue of Obligations will be detailed in the arbitrage or tax certificate prepared by bond counsel and signed by officials of the Issuer and the post-closing compliance checklist provided by bond counsel with respect to that issue. This Policy establishes a permanent, ongoing structure of practices and procedures that will facilitate compliance with the requirements for individual borrowings.

This Policy similarly documents practices and describes various procedures and systems designed to ensure compliance with Continuing Disclosure Agreements, by preparing and disseminated related reports and information and reporting "material events" for the benefit of the holders of the Issuer's obligations and to assist the Participating Underwriters (within the meaning of the Rule) in complying with the Rule.

The Issuer recognizes that compliance with pertinent law is an on-going process, necessary during the entire term of the obligations, and is an integral component of the Issuer's debt management. Accordingly, the analysis of those facts and implementation of the Policy will require on-going monitoring and consultation with bond counsel and the Issuer's accountants and advisors.

### **General Policies and Procedures**

The following policies relate to procedures and systems for monitoring post-issuance compliance generally.

- A. The Compliance Officer shall be responsible for monitoring post-issuance compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. All documents and other records relating to Obligations issued by the Issuer shall be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable Internal Revenue Service ("IRS") requirements, such as those contained in Revenue Procedure 97-22.
- D. The Compliance Officer shall be aware of options for voluntary corrections for failure to comply with post-issuance compliance requirements (such as remedial actions under Section 1.141-12 of the Regulations and the Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program) and take such corrective action when necessary and appropriate.
- E. The Compliance Officer will review post-issuance compliance procedures and systems on a periodic basis, but not less than annually.

### **Issuance of Obligations - Documents and Records**

With respect to each issue of Obligations, the Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").
- B. Confirm that bond counsel has filed the applicable information report (e.g., Form 8038, Form 8038-G, Form 8038-CP) for such issue with the IRS on a timely basis.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations with other applicable staff members of the Issuer.

## **Arbitrage**

The following policies relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

- A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript.
- B. Confirm that a computation of the yield on such issue from the Issuer's financial advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.
- C. Maintain a system for tracking investment earnings on the proceeds of the Obligations.
- D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.
- E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations.
- F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.
- H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts.
- J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.
- K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.



L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.

M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

### **Private Activity Concerns**

The following polices relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

A. Maintain records determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility.

B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.

C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.

D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.

E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:

1. Sale of the facilities, including sale of capacity rights;

2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;

3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;

4. Preference arrangements (in which the Issuer permits a third-party preference, such as parking in a public parking lot);

5. Joint-ventures, limited liability companies or partnership arrangements;

6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users);

7. Development agreements which provide for guaranteed payments or property values from a developer;

8. Grants or loans made to private entities, including special assessment agreements; and

9. Naming rights arrangements.

Monitoring of private use should include the following:

1. Procedures to review the amount of existing private use on a periodic basis; and
2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

If the Compliance Officer identifies private use of facilities financed with tax-exempt or tax-advantaged debt, the Compliance Officer will consult with the Issuer's bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

**Qualified Tax-Exempt Obligations**

If the Issuer issues qualified tax-exempt obligations in any year, the Compliance Officer shall monitor all tax-exempt financings (including lease purchase arrangements and other similar financing arrangements and conduit financings on behalf of 501(c)(3) organizations) to assure that the \$10,000,000 "Small Issuer" limit is not exceeded.

**Federal Subsidy Payments**

The Compliance Officer shall be responsible for the calculation of the amount of any federal subsidy payments and the timely preparation and submission of the applicable tax form and application for federal subsidy payments for tax-advantaged obligations such as Build America Bonds, New Clean Renewable Energy Bonds and Qualified School Construction Bonds.

**Reissuance**

The following policies relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

**Record Retention**

The following polices relate to retention of records relating to the Obligations Issued. The Compliance Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.

- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:
  - 1. The Transcript relating to the transaction (including any arbitrage or other tax certificate and the bond counsel opinion);
  - 2. Documentation evidencing expenditure of proceeds of the issue;
  - 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation.
  - 4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreements and research agreements);
  - 5. Documentation evidencing all sources of payment or security for the issue; and
  - 6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.
- E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

## **Continuing Disclosure**

Under the provisions of SEC Rule 15c2-12 (the "Rule"), Participating Underwriters (as defined in the Rule) are required to determine that issuers (such as the Issuer) have entered into written Continuing Disclosure Agreements to make ongoing disclosure in connection with Offerings subject to the Rule. Unless the Issuer is exempt from compliance with the Rule or the continuing disclosure provisions of the Rule as a result of certain permitted exemptions, the Transcript for each issue of related obligations will include a Continuing Disclosure Agreement executed by the Issuer.

In order to monitor compliance by the Issuer with its Continuing Disclosure Agreements, the Compliance Officer will, if and as required by such Continuing Disclosure Agreements:

- A. Assist in the preparation or review of annual reports ("Annual Reports") in the form required by the related Continuing Disclosure Agreements.
- B. Maintain a calendar, with appropriate reminder notifications, listing the filing due dates relating to dissemination of Annual Reports, which annual due date is generally expressed as a date within a certain number of days (e.g., 365 days) following the end of the Issuer's fiscal year (the "Annual Report Due Date"), as provided in the related Continuing Disclosure Agreements.
- C. Ensure timely dissemination of the Annual Report by the Annual Report Due Date, in the format and manner provided in the related Continuing Disclosure Agreements, which may include transmitting such filing to the Municipal Securities Rulemaking Board ("MSRB") through the Electronic Municipal Market Access ("EMMA") System at [www.emma.msrb.org](http://www.emma.msrb.org) in the format prescribed by the MSRB.
- D. Monitor the occurrence of any "Material Event" (as defined in the Continuing Disclosure Agreements) and timely file notice of the occurrence of any such Material Event in the manner provided under the Continuing Disclosure Agreements. To be timely filed, such notice must be transmitted within 10 days (or such other time period as set forth in the Continuing Disclosure Agreements) of the occurrence of such Material Event.
- E. Ensure timely dissemination of notice of any failure to perform under a Continuing Disclosure Agreement, if and as required by the Continuing Disclosure Agreement.
- F. Respond to requests or ensure that the Issuer Contact (as defined in the Continuing Disclosure Agreement) responds to requests, for information under the Rule, as provided in the Continuing Disclosure Agreements.
- G. Monitor the performance of any dissemination agent(s) engaged by the Issuer to assist in the performance of any obligation under the Continuing Disclosure Agreements.

PASSED and ADOPTED by the City of Tea, South Dakota, this 6<sup>th</sup> day of May, 2019.

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John M. Lawler, Mayor

ATTEST:

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Dawn R. Murphy, Finance Officer