

**CITY COUNCIL MEETING**  
**January 21, 2022**

The Faulkton City Council met in special session on January 21, 2022 in the City Hall meeting room with Finance Officer Emily Bauer and the following council members present: Linda Bartholomew, Sheilah Fischer, Chris Geiger, Dave Hadrick(via phone), Mark Toennies and Steve Wanner. Others present: Heather Bode, Sandy Bowar and Susan Miller. Mayor Slade Roseland called the meeting to order at 12:00 p.m.

**Open Forum:** Nobody spoke

<b>NEW BUSINESS</b>
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**2022.1.9 Resolution 2022-01:** Motion by Councilman Toennies, seconded by Geiger to approve and adopt for following resolution. Roll call vote was taken and passed unanimously.

**RESOLUTION NO. 2022-01**

**RESOLUTION GIVING APPROVAL TO A PROJECT WITH THE FAULKTON AREA MEDICAL CENTER (THE “CORPORATION”), AND GIVING APPROVAL AND AUTHORIZATION FOR THE ISSUANCE OF ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2022 (THE FAULKTON AREA MEDICAL CENTER) OF THE CITY OF FAULKTON, SOUTH DAKOTA, IN ONE OR MORE TAX-EXEMPT AND/OR TAXABLE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,277,000 FOR THE PURPOSE OF PROVIDING FUNDS TO BE LOANED TO THE CORPORATION TO REFINANCE THE PROJECT DESCRIBED HEREIN; APPROVING THE FORM OF BONDS, LOAN AGREEMENT AND OTHER DOCUMENTS WITH RESPECT TO SAID BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH DOCUMENTS, AND THE SALE OF SAID BONDS; MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO SAID PROJECT; APPROVING THE TAX-EXEMPT SERIES OF BONDS FOR PURPOSES OF SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986; AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN RELATED INSTRUMENTS.**

WHEREAS, the City of Faulkton, South Dakota (the “City”) is a political subdivision and corporate body duly organized and existing under the Constitution and the laws of the State of South Dakota (the “State”); and

WHEREAS, the purpose of Chapter 9-54 of the South Dakota Codified Laws (the “Act”) as found and determined by the legislature is to promote the welfare of the State by the provision of necessary economic development facilities; and

WHEREAS, the Council (the “Council”) of the City has received from Faulkton Area Medical Center, a South Dakota nonprofit corporation (the “Corporation”), a proposal that the City undertake to refinance a Project (as hereinafter described) through the issuance of economic development revenue bonds (the “Series 2022 Bonds”) pursuant to the Act, the proceeds of which to be used by the Corporation; and

WHEREAS, the proceeds of the Series 2022 Bonds will be used to refinance debt which was incurred to finance improvements to the Faulkton Area Medical Center and the payment of costs incidental to the issuance of the Series 2022 Bonds (collectively, the “Project”); and

WHEREAS, the City desires to facilitate the selective development of the community and help provide the range of services and employment opportunities required by its population, and the Project shall assist the City in achieving those objectives; and

WHEREAS, the City has been advised by representatives of the Corporation that conventional commercial financing to pay the costs of the Project is available only on a limited basis and at such high costs of borrowing that the

economic feasibility of operating the Project would be significantly reduced, but the Corporation has also advised this Council that with the aid of City financing and its lower borrowing cost the Project is economically more feasible; and

WHEREAS, prior to the issuance of bonds, Section 147(f) of the Internal Revenue Code of 1986 (the “Code”) and SDCL 9-54-12 requires that the City conduct a public hearing on the Project and the proposed financing with at least 7 days’ advance notice of such hearing to be published in a locally circulated newspaper (the “Public Hearing”), and such notice was published on January 12, 2022 in The City of Faulkton *Faulk County Record* (the “Notice of Public Hearing”), and said public hearing was held by the City, on behalf of the City, as issuer of the Series 2022 Bonds, at Noon, or soon thereafter as practicable, on the date hereof in accordance with the Notice of Public Hearing; and

WHEREAS, the City desires to approve of the Project and authorize the issuance of the Series 2022 Bonds and related documents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

**Section 1. Findings.** In furtherance of the provisions of the Act, and in order to promote, stimulate and develop the general economic welfare and prosperity of the City and of the State through the promotion and advancement of commercial and industrial development and to encourage and assist in the expansion of business in said City and State by providing greater employment opportunities, thus promoting the general welfare of the citizens of said City and State, and based upon the information available to this Council, it is necessary and advisable and in the best interest of said City to loan the proceeds of the Series 2022 Bonds hereinafter described to the Corporation, to provide funds to pay certain costs in connection with the financing of the Project, and to issue for the aforesaid purposes the Economic Development Revenue Bonds (Faulkton Area Medical Center), Series 2022 of said City, in one or more tax-exempt or taxable series, in an aggregate principal amount not to exceed \$6,277,000. The Series 2022 Bonds shall be issued pursuant to the Resolution, and the proceeds of the Series 2022 Bonds shall be loaned to the Corporation to finance the Project pursuant to the Loan Agreement (the “Loan Agreement”), by and between the City and the Corporation. The governing body hereby finds and declares that the Project will promote the welfare of said City and the State. The Project constitutes properties, real and personal, used or useful in connection with one or more revenue-producing enterprises within the meaning of the Act; that the availability of the financing under the Act and willingness of the City to furnish such financing is a substantial inducement to the Corporation to undertake the Project; that, based upon representations of the Corporation, the Project would not be undertaken but for the availability of City revenue bond financing; and that the effect of the Project, if undertaken, shall promote the general welfare of the State.

**Section 2. The Series 2022 Bonds.** The Series 2022 Bonds, substantially in the form of the draft thereof on file with the City on this date shall be and the same is, in all respects, hereby authorized, approved and confirmed, and the Mayor, City, Finance Officer, and other appropriate officials shall be and they are hereby authorized and directed to execute and seal the Series 2022 Bonds and to deliver the Series 2022 Bonds to the purchasers thereof, for and on behalf of the City, upon receipt of the purchase price, and to deposit the proceeds thereof in the manner provided for by the Loan Agreement.

**Section 3. Sale of the Series 2022 Bonds; Bond Purchase Agreement.** The City does hereby authorize the sale of the Series 2022 Bonds, such Series 2022 Bonds to be in one or more series, in an aggregate principal amount not to exceed \$6,277,000 to bond purchaser, to bear interest and to mature as set forth therein, at a purchase price of not less than 100% of the principal amount plus accrued interest. The City does hereby authorize and approve the execution and delivery of a Bond Purchase Agreement dated as of the date of the sale of the Series 2022 Bonds (the “Bond Purchase Agreement”), by and among the City, the Corporation and bond purchaser, such Bond Purchase Agreement to be substantially in the form and content of the draft thereof on file with the City on this date, and is hereby approved, with such changes therein as shall be approved by the Mayor or City Finance Officer, with the advice of the City Attorney, and the execution thereof shall constitute conclusive evidence of their approval and the City’s approval of any changes or revisions therein from the form of Bond Purchase Agreement approved hereby.

**Section 4. Loan Agreement.** The Loan Agreement and Note are pledged as security for the Series 2022 Bonds and the interest thereon, and the Loan Agreement shall be, and they are, in all respects, hereby authorized, approved and confirmed, and the Mayor and City Finance Officer shall be and they are hereby authorized and directed to execute and deliver said documents in the form and content of the draft thereof on file with the City on this date, with such changes

therein as shall be approved by the Mayor or City Finance Officer with the advice of the City Attorney, and the execution thereof shall constitute conclusive evidence of their approval and the City's approval of any changes or revisions therein from the form Loan Agreement approved hereby.

**Section 5. Note.** Pursuant to the Loan Agreement, the Corporation will issue to the City its Promissory Note dated as of the date of the issuance of the Series 2022 Bonds (the "Series 2022 Note") to evidence its obligations under the Loan Agreement. The Series 2022 Note will be in a principal amount not less than the principal amount of the Series 2022 Bonds and have similar prepayment provisions, maturities and interest rates as the Series 2022 Bonds. The City hereby approves the assignment of the Series 2022 Note by the City to the Trustee for the benefit and security of the Series 2022 Bonds.

**Section 6. Tax Exemption Agreement.** The City does hereby authorize and approve the execution and delivery of a Tax Exemption Agreement relating to the tax-exempt series of the Series 2022 Bonds (the "Tax-Exempt Bonds"), dated as of the date of the issuance of the Tax-Exempt Bonds (the "Tax Exemption Agreement"), between the Corporation and the City; such Tax Exemption Agreement to be substantially in the form and content of the draft thereof on file with the City on this date, is hereby approved, with such changes therein as shall be approved by the Mayor or City Finance Officer with the advice of the City Attorney, and the execution thereof shall constitute conclusive evidence of their approval and the City's approval of any changes or revisions therein from the form of Tax Exemption Agreement approved hereby.

**Section 7. Offering Document.** Any preliminary official statement and/or final official statement or other offering document which may be used in connection with the sale and issuance of the Series 2022 Bonds shall be in such form as shall be approved solely as to and for purposes of distribution by the Mayor, or any other official of the City named in Section 12 herein, with the advice of bond counsel. The Mayor and each other official of the City named in Section 12 herein shall be and hereby are authorized and directed to execute any such preliminary official statement and/or final official statement or other offering document relating to the Series 2022 Bonds.

**Section 9. Bond Opinion.** The City Finance Officer of the City shall obtain a copy of the proposed approving legal opinion of bond counsel for the Bond, such opinion to be rendered by Meierhenry Sargent LLP, Sioux Falls, South Dakota, and shall cause such opinion to be filed in the offices of the City Finance Officer.

**Section 10. Limited Obligations.** The Series 2022 Bonds, together with the interest thereon, shall be limited obligations of the City payable solely out of the payments, revenues and receipts received by the City pursuant to the Loan Agreement and Series 2022 Note, which payments, revenues and receipts are hereby and pursuant to the Loan Agreement pledged and assigned for the payment of the Series 2022 Bonds and shall be used for no other purpose than to pay the principal of and interest on the Series 2022 Bonds, except as may be otherwise expressly authorized in the Loan Agreement. The Series 2022 Bonds and the interest thereon shall not constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitation and shall not constitute or give rise to a pecuniary liability of the City or its officers, agents or employees, or a charge against the City's general credit or taxing power.

**Section 11. Reimbursement Declaration.** The Corporation has paid, and will continue to pay, certain costs of the Project prior to the date of issuance of the Bonds that it expects to reimburse with proceeds of the Bonds. The City hereby adopts a declaration of official intent with respect to the Corporation's reimbursement of such expenditures, in accordance with Section 1.150-2 of the United States Treasury Regulations. The maximum amount of Bonds to be used for such purpose shall not exceed \$6,277,000.

**Section 12. Severability; Exhibits on File.** If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution. All documents herein referred to shall be maintained on file in the office of the City Finance Officer and is available for inspection by any interested party during normal business hours.

**Section 13. Authority of City Officers.** The Mayor, City Finance Officer, City Attorney and other City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other agreements, instruments, certificates, documents or other papers and to perform such other acts as they may deem necessary or

appropriate in order to implement and carry out the matters herein authorized and in the documents authorized and approved herein.

**Section 14. Approval Pursuant to Section 147(f) of the Code.** To the fullest extent required by Section 147(f) of the Code, the City hereby approves of the issuance of the Tax-Exempt Bonds, in one or more series, pursuant to a plan of finance in an aggregate principal amount not to exceed \$6,277,000 and to finance the Project as described in the Notice of Public Hearing.

**Effective Date. This Resolution shall take effect following (i) the 20th day following its publication unless suspended by a referendum, and (ii) the holding of the Public Hearing to the satisfaction of the Council Members.**

Adopted at Faulkton, South Dakota this 21<sup>st</sup> day of January 2022.

The above and foregoing resolution was moved for adoption and seconded, and upon roll call the Mayor declared the resolution to be duly passed and adopted.

(SEAL)

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Slade Roseland, Mayor

ATTEST:

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Emily Bauer, City Finance Officer

**2022.1.10 Adjournment.** There being no other business to come before the council, the meeting adjourned on a motion by Councilman Geiger. Time: 12:01 p.m.

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Slade Roseland, Mayor

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Emily Bauer, Finance Officer