

COUNCIL MEETING MINUTES
Library Media Center
412 2nd Street NW, Ortonville, MN
Monday, June 5, 2023
5:00 P.M.

CALL TO ORDER AND ROLL CALL: Mayor Hausauer called the meeting to order at 5:00 P. M. Roll call was taken with the following present: J. Dorry, Sykora, T. Dorry, Berger, Powell and Karels. Absent: None. Staff present: Deb Ellingson, Sam Berger, Scott Huizenga and Jesse Roscoe. Media: Mike Swenson. Other: Dan Tienter, Artie Arndt, David McLaughlin, Jordan Roggenbuck, Susanne Souza and Ashton Ayres.

AGENDA AMENDMENTS: ADD: 10.e. Resignation Letter. ADD: 4.c. Artie Arndt

PUBLIC PARTICIPATION AND CORRESPONDENCE:

4.a. Ehlers

4.a.1. Resolution-MPFA

Pursuant to due call and notice thereof, a regular or special meeting of the City Council of the City of Ortonville, Big Stone County, Minnesota, was duly held at the City Hall on June 5, 2023, at 5:00 P.M., for the purpose of in parting of awarding the sale of a \$2,458,515 General Obligation Disposal System Not of 2023A.

The following members were present: Jake Dorry, Kim Sykora, Tom Dorry, Gene Hausauer, Ashley Berger, Bill Powell and Matt Karels.

Member T. Dorry introduced the following resolution and moved its adoption upon subject to city attorney approval.

RESOLUTION NO. 23-61

RESOLUTION ACCEPTING THE OFFER OF THE MINNESOTA PUBLIC FACILITIES AUTHORITY TO PURCHASE A \$2,458,515 GENERAL OBLIGATION DISPOSAL SYSTEM NOTE OF 2023A, PROVIDING FOR ITS ISSUANCE AND AUTHORIZING EXECUTION OF A BOND PURCHASE AND PROJECT LOAN AGREEMENT

A. WHEREAS, the City Council of the City of Ortonville, Minnesota (the "City"), has heretofore applied for a loan from the Minnesota Public Facilities Authority (the "PFA") to provide financing pursuant to Minnesota Statutes, Chapters 475 and Section 115.46, for the replacement of a portion of the sanitary sewer collection system in the area of Stephens and

Jackson Avenues, as detailed in the Minnesota Pollution Control Agency's certification dated, June 30, 2022 (the "Project"); and

B. WHEREAS, the PFA is authorized pursuant to Minnesota Statutes, Chapter 446A, as amended, to issue its bonds (the "PFA Bonds") and to use the proceeds thereof, together with certain other funds, to provide loans and other assistance to municipalities to fund eligible costs of construction of publicly owned clean water systems in accordance with the federal Safe Drinking Water Act and the federal Clean Water Act; and

C. WHEREAS, the City has applied for a loan from the PFA pursuant to such program and the PFA has committed to make a loan to the City in the principal amount of \$2,458,515, to be disbursed and repaid in accordance with the terms of a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated May 11, 2023 (the "Bond Purchase and Project Loan Agreement"), a copy of which has been presented to the Council and is on file with the City Clerk-Administrator; and

D. WHEREAS, the \$2,458,515 General Obligation Disposal System Note of 2023A (the "Note") of the City is tax-exempt, and in addition the City will need to assure the tax-exemption of the PFA Bonds; and

E. WHEREAS, in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(4), the City is authorized to issue obligations to a board, department or agency of the State of Minnesota by negotiation and without advertisement for bids and the PFA is, and has represented that it is, a board, department or agency of the State of Minnesota; and

F. WHEREAS, the City owns and operates a municipal sanitary system (the "Sewer System") as a separate revenue producing public utility; and

G. WHEREAS, the net revenues of the Sewer System are pledged to the payment of the City's outstanding (i) General Obligation Sewer Revenue Note of 2008, in the original principal amount of \$553,407, dated June 16, 2008; and (ii) General Obligation Sewer Revenue Note of 2019, in the original principal amount of \$2,677,985, dated July 25, 2019 (the "Outstanding Sewer Notes"); and

H. WHEREAS, a contract or contracts for the Project have been made by the City with the approval of the PFA and all other state and federal agencies of which approval is required:

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Ortonville, Big Stone County, Minnesota, as follows:

1. Acceptance of Offer; Payment. The offer of the PFA to purchase a \$2,458,515 General Obligation Disposal System Note of 2023A of the City (the "Note"), at the rate of interest hereinafter set forth, and to pay therefor the sum of \$2,458,515 as provided below, is hereby accepted, and the sale of the Note is hereby awarded to the PFA. Payment for the Note shall be disbursed in installments as eligible costs of the Project are reimbursed or paid, all as provided in the Bond Purchase and Project Loan Agreement.

2. Title; Date; Denomination; Interest Rates; Maturities. The Note shall be a fully registered negotiable obligation, shall be titled "General Obligation Disposal System Note of 2023A," shall be dated as of the date of delivery and shall be issued forthwith. The Note shall be in the principal amount of \$2,458,515, or so much thereof as shall be disbursed pursuant to the Bond Purchase and Project Loan Agreement, shall bear interest on so much of the principal amount of the Note as may be disbursed and remains unpaid until the principal amount of the Note has been paid or has been provided for, at the rate of 1.273% per annum (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Note is payable semi-annually on February 20 and August 20, commencing August 20, 2024. Interest starts accruing as of the date of the initial disbursement. Principal on the Note shall mature on August 20 of the years and in the installments as follows:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2024 | \$60,515 | 2034 | \$126,000 |
| 2025 | 112,000 | 2035 | 128,000 |
| 2026 | 114,000 | 2036 | 129,000 |
| 2027 | 115,000 | 2037 | 131,000 |
| 2028 | 117,000 | 2038 | 132,000 |
| 2029 | 118,000 | 2039 | 134,000 |
| 2030 | 120,000 | 2040 | 136,000 |
| 2031 | 121,000 | 2041 | 138,000 |
| 2032 | 123,000 | 2042 | 139,000 |
| 2033 | 124,000 | 2043 | 141,000 |

Interest shall accrue only on the aggregate amount of the Note which has been disbursed and is unpaid under the Bond Purchase and Project Loan Agreement. The principal installments shall be paid in the amounts scheduled above even if at the time of payment the full principal amount of the Note has not been disbursed; provided that if the full principal amount of the Note is never disbursed, the amount of the principal not disbursed shall be applied to reduce each unpaid principal installment in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be reamortized to provide similarly level annual installments of total debt service payments). Principal, interest and any premium due under the Note will be paid on each payment date by wire payment, or by check or draft mailed at least five business days prior to the payment date to the person in whose name the Note is registered, in any coin or currency of the United States which at the time of payment is legal tender for public and private debts.

Interest on the Note includes amounts treated by the PFA as service fees.

3. Purpose; Cost. The proceeds of the Note shall provide funds to finance construction of the Project. The total cost of the construction of the Project, including legal and other professional charges, publication and printing costs, interest accruing on money borrowed for the Project before the collection of net revenues pledged and appropriated therefor and the receipt of ad valorem taxes pledged to the payment of the Note, and all other costs necessarily incurred and to be incurred from the inception to the completion of the Project, is estimated to be at least equal to the amount of the Note. The City covenants that it shall do all things and

perform all acts required of it to assure that work on the Project proceeds with due diligence to completion and that any and all permits and studies required under law for the Project are obtained.

4. Redemption. The Note shall be subject to redemption and prepayment in whole or in part at the option of the City, subject to the written consent of the PFA, or mandatorily as provided in the Bond Purchase and Project Loan Agreement.

5. Registration of Note. At the time of issuance and delivery of the Note, the officer of the City performing the functions of the treasurer (the "City Clerk-Administrator") shall register the Note in the name of the payee in a note register which the City Clerk-Administrator and the officer's successors in office shall maintain for the purpose of registering the ownership of the Note. The Note shall be prepared for execution with an appropriate text and spaces for notation of registration. The force and effect of such registration shall be as stated in the form of Note hereinafter set forth. Payment of principal installments and interest, whether upon redemption or otherwise, made with respect to the Note, may be made to the registered holder thereof or to the registered holder's legal representative, without presentation or surrender of the Note.

6. Form of Note. The Note, together with the Certificate of Registration attached thereto, shall be in substantially the following form:

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF BIG STONE
CITY OF ORTONVILLE**

**\$2,458,515 GENERAL OBLIGATION DISPOSAL SYSTEM NOTE OF
2023A**

THE CITY OF ORTONVILLE, BIG STONE COUNTY, MINNESOTA (the "City"), certifies that it is indebted and for value received promises to pay to the Minnesota Public Facilities Authority or the registered assign, the principal sum of TWO MILLION FOUR HUNDRED FIFTY EIGHT THOUSAND FIVE HUNDRED FIFTEEN DOLLARS, or so much thereof as may have been disbursed, on August 20 of the years and in the installments as follows:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2024 | \$60,515 | 2034 | \$126,000 |
| 2025 | 112,000 | 2035 | 128,000 |
| 2026 | 114,000 | 2036 | 129,000 |
| 2027 | 115,000 | 2037 | 131,000 |
| 2028 | 117,000 | 2038 | 132,000 |
| 2029 | 118,000 | 2039 | 134,000 |
| 2030 | 120,000 | 2040 | 136,000 |
| 2031 | 121,000 | 2041 | 138,000 |

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2032 | 123,000 | 2042 | 139,000 |
| 2033 | 124,000 | 2043 | 141,000 |

and to pay interest on so much of the principal amount of the debt as may be disbursed and remains unpaid until the principal amount hereof is paid or has been provided for, at the rate of 1.273% per annum (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Note is payable semi-annually on February 20 and August 20, commencing August 20, 2024. Interest starts accruing as of the date of the initial disbursement.

Principal and Interest Payments. Interest shall accrue only on the aggregate amount of this Note which has been disbursed under the Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated as of May 11, 2023, by and between the City and the Minnesota Public Facilities Authority (the "Bond Purchase and Project Loan Agreement"). The principal installments shall be paid in the amounts scheduled above even if at the time of payment the full principal amount of this Note has not been disbursed; provided that if the full principal amount of this Note is never disbursed, the amount of the principal not disbursed shall be applied to reduce each unpaid principal installment in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be reamortized to provide similarly level annual installments of total debt service payments). Interest on this Note includes amounts treated by the Minnesota Public Facilities Authority as service fees. Principal, interest and any premium due under this Note will be paid on each payment date by wire payment, or by check or draft mailed at least five business days prior to the payment date to the person in whose name this Note is registered, in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

Redemption. This Note shall be subject to redemption and prepayment in whole or in part at the option of the City, subject to the written consent of the Minnesota Public Facilities Authority, or mandatorily as provided in the Bond Purchase and Project Loan Agreement.

Purpose; General Obligation. This Note has been issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota for the purpose of providing money for the replacement of a portion of the sanitary sewer collection system in the area of Stephens and Jackson Avenues as detailed in the Minnesota Pollution Control Agency's certification dated, June 30, 2022 (the "Project") and is payable out of the PFA Debt Service Account of the Sewer Fund of the City, to which account have been pledged net revenues of the Sewer System. This Note constitutes a general obligation of the City, and to provide moneys for the prompt and full payment of said principal installments and interest when the same become due, the full faith, credit and taxing powers of the City have been and are hereby irrevocably pledged.

Registration; Transfer. This Note shall be registered in the name of the payee on the books of the City by presenting this Note for registration to the City Clerk-Administrator, who will endorse his or her name and note the date of registration opposite the name of the payee in the certificate of registration attached hereto. Thereafter this Note may be transferred to a bona fide purchaser only by delivery with an assignment duly executed by the registered owner or the registered owner's legal representative, and the City may treat the registered owner as the person exclusively entitled to exercise all the rights and powers of an owner until this Note is presented with such assignment for registration of transfer, accompanied by assurance of the nature

provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted hereon by the City Clerk-Administrator.

Fees Upon Transfer or Loss. The City Clerk-Administrator may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer of this Note and any legal or unusual costs regarding transfers and lost notes.

Bond Purchase and Project Loan Agreement. The terms and conditions of the Bond Purchase and Project Loan Agreement are incorporated herein by reference and made a part hereof. The Bond Purchase and Project Loan Agreement may be attached to this Note, and shall be attached to this Note if the holder of this Note is any person other than the Minnesota Public Facilities Authority.

Tax-Exempt Obligation. The City intends that the interest on this Note will be excluded from gross income for United States income tax purposes or from both gross income and taxable net income for State of Minnesota income tax purposes.

Qualified Tax-Exempt Obligation. This Bond has been designated by the City as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the federal Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to happen and to be performed, precedent to and in the issuance of this Note, have been done, have happened and have been performed, in regular and due form, time and manner as required by law; that the City has covenanted and agreed with the holder of this Note that it will impose and collect charges for the service, use and availability of and connection to the Sewer System at the times and in amounts necessary to produce net revenues together with taxes levied in the resolution issuing the Note adequate to pay all principal and interest when due on this Note; that the City will levy a direct, annual, irrevocable ad valorem tax upon all of the taxable property in the City, without limitation as to rate or amount, for the years and in amounts sufficient to pay the installments of principal and interest on this Note as they respectively become due, if the net revenues from the Sewer System and other revenues irrevocably appropriated to said PFA Debt Service Account are insufficient therefor; and that this Note, together with all other debts of the City outstanding on the date hereof, being the date of its actual issuance and delivery, does not exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Ortonville, Big Stone County, Minnesota, by its City Council has caused this Note to be executed on its behalf by the manual signatures of its Mayor and of its City Clerk-Administrator, and the corporate seal of the City having been intentionally omitted as permitted by law, all as of June 5, 2023.

CITY OF ORTONVILLE, BIG STONE
COUNTY, MINNESOTA

(do not sign)

Mayor

(do not sign)

City Clerk Administrator

CERTIFICATE OF REGISTRATION

The transfer of ownership of the principal amount of the attached Note may be made only by the registered owner or his, her or its legal representative last noted below.

| <u>DATE OF REGISTRATION</u> | <u>REGISTERED OWNER</u> | <u>SIGNATURE OF CITY CLERK-ADMINISTRATOR</u> |
|---------------------------------|--|--|
| (do not date) _____ | Minnesota Public Facilities Authority Saint Paul, Minnesota Federal Employer Identification No. 41-6007162 _____ | (do not sign) _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

7. Execution. The Note shall be executed on behalf of the City by the electronic signatures or manual signatures of its Mayor and City Clerk-Administrator; the seal of the City has been intentionally omitted as permitted by law. The electronic signature of the Mayor and/or the City Clerk-Administrator to this resolution and to any certificate authorized to be executed hereunder shall be as valid as an original signature of such party and shall be effective to bind the City thereto. For purposes hereof, (i) "electronic signature" means (a) a manually signed original signature that is then transmitted by electronic means or (b) a signature obtained through DocuSign or a similarly digitally auditable signature gathering process; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message. In the event of disability or resignation or other absence of either such officer, the Note may be signed by electronic signature or manual signature of that officer who may act on behalf of such absent or disabled officer. In case either such officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

8. Delivery; Application of Proceeds. The Note when so prepared and executed shall be delivered by the City Clerk-Administrator to the purchaser thereof prior to disbursements pursuant to the Bond Purchase and Project Loan Agreement, and the purchaser shall not be obliged to see to the proper application thereof.

9. Fund and Accounts. There has heretofore been created a separate fund in the City treasury designated the Sewer Fund (the "Fund"). The City Clerk-Administrator and all municipal officials and employees concerned therewith shall maintain financial records of the receipts and disbursements of the Sewer System in accordance with the resolutions establishing the Fund. The Operation and Maintenance Account heretofore established by the City for the Sewer System shall continue to be maintained in the manner heretofore provided by the City. All moneys remaining after paying or providing for the items set forth in the resolution establishing the Operation and Maintenance Account shall constitute and are referred to as "net revenues" until the Note has have been paid. There shall be maintained in the Fund the following accounts:

(a) A "PFA Construction Account", to which shall be credited all proceeds received from the sale of the Note. The Note shall be the only source of moneys credited to the PFA Construction Account. It is recognized that the sale proceeds of the Note are received in reimbursement for costs expended on the Project or in direct payment of such costs, and that accordingly the moneys need not be placed in the PFA Construction Account upon receipt but may be applied immediately to reimburse the source from which the expenditure was made. The moneys in the PFA Construction Account shall be used solely for the purpose of paying for the cost of constructing the Project, including all costs enumerated in Minnesota Statutes, Section 475.65, provided that such moneys shall only be expended for costs and expenses which are permitted under the Bond Purchase and Project Loan Agreement. The PFA prohibits the use of proceeds of the Note to reimburse costs initially paid from proceeds of other obligations of the City unless otherwise specifically approved. Upon completion of the Project and the payment of the costs thereof, any surplus shall be transferred to the PFA Debt Service Account.

(b) A "PFA Debt Service Account", to which shall be irrevocably appropriated, pledged and credited: (i) net revenues of the Sewer System in an amount sufficient to pay the principal of, and interest on, the Note when due; (ii) any collection of taxes herein levied and the taxes levied by this resolution; (iii)

any collection of taxes which may hereafter be levied in the event the net revenues of the Sewer System herein pledged for the payment of the Note are insufficient therefor; (iv) all investment earnings on moneys held in the PFA Debt Service Account; (v) any amounts transferred from the PFA Construction Account; and (vi) any other moneys which are properly available and are appropriated by the City Council to the PFA Debt Service Account. The moneys in the PFA Debt Service Account shall be used only to pay or prepay the principal of, and interest on, the Note and any other general obligation bonds hereafter issued and made payable from the PFA Debt Service Account, and to pay any rebate due to the United States with respect to the PFA Bonds in connection with the Note.

No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued, and (2) in addition to the above in an amount not greater than the lesser of five percent of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note or any sums from time to time held in the PFA Construction Account, Operation and Maintenance Account or PFA Debt Service Account (or any other City account which will be used to pay principal or interest to become due on the Note) in excess of amounts which under then applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable "temporary periods" or "minor portion" made available under the federal arbitrage regulations. In addition, moneys in the Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note to be "federally guaranteed" within the meaning of Section 149(b) of the federal Internal Revenue Code of 1986, as amended (the "Code").

The City shall observe the covenants of paragraphs 16, 17 and 18 of this resolution and of Article 3 of the Bond Purchase and Project Loan Agreement with regard to the Fund.

10. Coverage Test; Pledge of Net Revenues; Excess Revenues. It is hereby found, determined and declared that the net revenues of the Sewer System are sufficient in amount to pay when due the principal of and interest on the Note and the Outstanding Sewer Notes and a sum at least five percent in excess thereof. The net revenues of the Sewer System are hereby pledged on a parity lien with the Outstanding Sewer Notes, but solely to the extent required to meet, together with other pledged sums, the principal and interest requirements of the Note. Excess net revenues may be used for any proper purpose.

Nothing contained herein shall be deemed to preclude the City from making further pledges and appropriations of the net revenues of the Sewer System for the payment of other or additional obligations of the City, provided that it has first been determined by the City Council that estimated net revenues of the Sewer System will be sufficient, in addition to all other sources, for the payment of the Note and such additional obligations, and any such pledge and appropriation of net revenues may be made superior or subordinate to, or on a parity with, the pledge and appropriation herein. Net revenues in excess of those required for the foregoing may be used for any proper purpose.

11. Pledge to Produce Revenues. The City hereby covenants and agrees with the holder of the Note that it will impose and collect charges for the service, use and availability of

and connection to the Sewer System at the times and in the amounts required to produce net revenues adequate to pay, together with other pledged sums, all principal and interest when due on the Note. However, nothing herein shall preclude the City from levying taxes for the payment of the Note as permitted by Minnesota Statutes, Section 115.46.

12. Tax Levy; Coverage Test. To provide moneys for payment of the principal and interest on the Note there is hereby levied upon all of the taxable property in the City a direct annual ad valorem tax which shall be spread upon the tax rolls and collected with and as part of other general property taxes in the City for the years and in the amounts as follows:

| <u>Levy Years</u> | <u>Collection Years</u> | <u>Amount</u> |
|-------------------|-------------------------|---------------|
| 2023 | 2024 | \$83.28 |
| 2024 | 2025 | 37,576.87 |
| 2025 | 2026 | 22,844.82 |
| 2026 | 2027 | 5,748.04 |

The tax levies are such that if collected in full they, together with other revenues herein pledged for the payment of the Note, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the Note. The tax levies shall be irrevocable so long as any of the Note is outstanding and unpaid, provided that the City reserves the right and power to reduce the tax levies in the manner and to the extent permitted by Minnesota Statutes, Section 475.61, Subdivision 3.

13. General Obligation Pledge. The full faith, credit and taxing powers of the City shall be, and are hereby, irrevocably pledged for the prompt and full payment of the principal and interest on the Note as the same respectively become due. If the net revenues of the Sewer System and pledged to the payment of principal and interest on the Note, together with other funds irrevocably appropriated to the PFA Debt Service Account, shall at any time be insufficient to pay such principal and interest when due, the City covenants and agrees to levy, without limitation as to rate or amount, an ad valorem tax upon all taxable property in the City sufficient to pay such principal and interest as they become due. If the balance in the PFA Debt Service Account is ever insufficient to pay all principal and interest then due on the Note and any other obligations payable therefrom, the deficiency shall be promptly paid out of any other funds of the City which are available for such purpose, and such other funds may be reimbursed, with or without interest, from the PFA Debt Service Account when a sufficient balance is available therein.

14. Certificate of Registration. The City Clerk-Administrator is hereby directed to file a certified copy of this resolution with the County Auditor of Big Stone County, Minnesota, together with such other information as the County Auditor shall require, and to obtain the County Auditor's certificate that the Note has been entered in the County Auditor's Bond Register and that the tax levy required by law has been made.

15. Bond Purchase and Project Loan Agreement. The Bond Purchase and Project Loan Agreement is hereby approved in substantially the form presented to the City Council, and in the form executed by electronic signatures or manual signatures is hereby incorporated by reference and made a part of this resolution. The electronic signature of the Mayor and/or the City Clerk-Administrator to this Bond Purchase and Project Loan Agreement and to any certificate authorized to be executed hereunder shall be as valid as an original signature of such party and shall be effective to bind the City thereto. For purposes hereof, (i) "electronic signature" means (a) a manually signed original signature that is then transmitted by electronic means or (b) a signature obtained through DocuSign or a similarly digitally auditable signature gathering process; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message. Each and all of the provisions of this resolution relating to the Note are intended to be consistent with the provisions of the Bond Purchase and Project Loan Agreement, and to the extent that any provision in the Bond Purchase and Project Loan Agreement is in conflict with this resolution as it relates to the Note, that provision shall control and this resolution shall be deemed accordingly modified. The City's execution and delivery of the Bond Purchase and Project Loan Agreement by the Mayor and City Clerk-Administrator is hereby approved, ratified and authorized. The execution of the Bond Purchase and Project Loan Agreement by the appropriate officers shall be conclusive evidence of the approval of the Bond Purchase and Project Loan Agreement in accordance with the terms hereof. The Bond Purchase and Project Loan Agreement may be attached to the Note, and shall be attached to the Note if the holder of the Note is any person other than the PFA.

16. Records and Certificates. The officers of the City are hereby authorized and directed to prepare and furnish to the PFA, and to the attorneys approving the legality of the issuance of the Note, certified copies of all proceedings and records of the City relating to the Note and to the financial condition and affairs of the City, and such other affidavits, certificates and information as are required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

17. Negative Covenants as to Use of Proceeds and Project. The City hereby covenants not to use the proceeds of the Note or to use the Project, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Project, in such a manner as to cause the Note to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that no actions will be taken over the term of the Note that would cause it to be a private activity bond, and the average term of the Note is not longer than reasonably necessary for the governmental purpose of the issue. The City hereby covenants not to use the proceeds of the Note in such a manner as to cause the Note to be a "hedge bond" within the meaning of Section 149(g) of the Code.

The City hereby covenants not to use the proceeds of the Note or to use the Project, or to cause or permit them to be used, or to enter into any deferred payment arrangement for the cost of the Project, in such a manner as to cause the PFA Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that it will take no actions over the term of the Note that would cause the PFA Bonds to be private

activity bonds, and the average term of the Note is not longer than reasonably necessary for its governmental purpose.

18. Compliance With Reimbursement Bond Regulations. The provisions of this paragraph are intended to establish and provide for the City's compliance with United States Treasury Regulations Section 1.150-2 (the "Reimbursement Regulations") applicable to the "reimbursement proceeds" of the Note, being those portions thereof which will be used by the City to reimburse itself for any expenditure which the City paid or will have paid prior to the Closing Date (a "Reimbursement Expenditure").

The City hereby certifies and/or covenants as follows:

(a) Not later than sixty days after the date of payment of a Reimbursement Expenditure, the City (or person designated to do so on behalf of the City) has made or will have made a written declaration of the City's official intent (a "Declaration") which effectively (i) states the City's reasonable expectation to reimburse itself for the payment of the Reimbursement Expenditure out of the proceeds of a subsequent borrowing; (ii) gives a general and functional description of the property, project or program to which the Declaration relates and for which the Reimbursement Expenditure is paid, or identifies a specific fund or account of the City and the general functional purpose thereof from which the Reimbursement Expenditure was to be paid (collectively the "Project"); and (iii) states the maximum principal amount of debt expected to be issued by the City for the purpose of financing the Project; provided, however, that no such Declaration shall necessarily have been made with respect to: (i) "preliminary expenditures" for the Project, defined in the Reimbursement Regulations to include engineering or architectural, surveying and soil testing expenses and similar preliminary costs, which in the aggregate do not exceed twenty percent of the "issue price" of the Note, and (ii) a *de minimis* amount of Reimbursement Expenditures not in excess of the lesser of \$100,000 or five percent of the proceeds of the Note.

(b) Each Reimbursement Expenditure is a capital expenditure or a cost of issuance of the Note or any of the other types of expenditures described in Section 1.150-2(d)(3) of the Reimbursement Regulations.

(c) The "reimbursement allocation" described in the Reimbursement Regulations for each Reimbursement Expenditure shall and will be made forthwith following (but not prior to) the issuance of the Note, and not later than three years after the later of (i) the date of the payment of the Reimbursement Expenditure, or (ii) the date on which the Project to which the Reimbursement Expenditure relates is first placed in service.

(d) Each such reimbursement allocation will be made in a writing that evidences the City's use of note proceeds to reimburse the Reimbursement Expenditure and, if made within 30 days after the Note is issued, shall be treated as made on the day the Note is issued.

Provided, however, that the City may take action contrary to any of the foregoing covenants in this paragraph upon receipt of an opinion of its Bond Counsel for the Note stating in effect that such action will not impair the tax-exempt status of the Note.

19. Tax-Exempt Status of the Note; Rebate. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Note, including without limitation (a) requirements relating to temporary periods for investments, (b) limitations on amounts invested at a yield greater than the yield on the Note, and (c) the rebate of excess investment earnings to the United States if the Note (together with other obligations reasonably expected to be issued and outstanding at one time in this calendar year) exceeds the small-issuer exception amount of \$5,000,000.

For purposes of qualifying for the exception to the federal arbitrage rebate requirements for governmental units issuing \$5,000,000 or less of bonds, the City hereby finds, determines and declares that (a) the Note is issued by a governmental unit with general taxing powers, (b) the Note is not a private activity bond, (c) ninety-five percent or more of the net proceeds of the Note are to be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City), and (d) the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City (and all subordinate entities thereof, and all entities treated as one issuer with the City) during the calendar year in which the Note is issued and outstanding at one time is not reasonably expected to exceed \$5,000,000, all within the meaning of Section 148(f)(4)(D) of the Code.

20. Tax-Exempt Status of the PFA Bonds; Rebate. The City with respect to the Note shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the PFA Bonds, including without limitation (a) requirements relating to temporary periods for investments, (b) limitations on amounts invested at a yield greater than the yield on the PFA Bonds, and (c) the rebate of excess investment earnings to the United States. The City covenants and agrees with the PFA and holders of the Note that the investments of proceeds of the Note, including the investment of any revenues pledged to the Note which are considered gross proceeds of the PFA Bonds under the applicable regulations, and accumulated sinking funds, if any, shall be limited as to amount and yield in such manner that the PFA Bonds shall not be arbitrage bonds within the meaning of Section 148 of the Code and any regulations thereunder. On the basis of the existing facts, estimates and circumstances, including the foregoing findings and covenants, the City hereby certifies that it is not expected that the proceeds of the Note will be used in such manner as to cause the PFA Bonds to be arbitrage bonds under Section 148 of the Code and any regulations thereunder. The Mayor and City Clerk-Administrator shall furnish a certificate to the PFA embracing or based on the foregoing certification at the time of delivery of the Note to the PFA. The proceeds of the Note will likewise be used in such manner that the Note is not a private activity bond under Section 103(b) of the Code.

21. Designation of Qualified Tax-Exempt Obligation. In order to qualify the Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, the City hereby makes the following factual statements and representations:

- (a) the Note is issued after August 7, 1986;
- (b) the Note is not a "private activity bond" as defined in Section 141 of the Code;
- (c) the City hereby designates the Note as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;
- (d) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities treated as one issuer with the City, and all subordinate entities whose obligations are treated as issued by the City) during this calendar year 2023 will not exceed \$10,000,000;
- (e) not more than \$10,000,000 of obligations issued by the City during this calendar year 2023 have been designated for purposes of Section 265(b)(3) of the Code; and

(f) the aggregate face amount of the Note does not exceed \$10,000,000.

The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this paragraph.

22. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

23. Headings. Headings in this resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

The motion for the adoption of the foregoing resolution was duly seconded by member Jake Dorry and, after full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof: Jake Dorry, Kim Sykora, Tom Dorry, Gene Hausauer, Ashley Berger, Bill Powell and Matt Karels and the following voted against the same: None.

Whereupon the resolution was declared duly passed and adopted.

STATE OF MINNESOTA
COUNTY OF BIG STONE
CITY OF ORTONVILLE

I, the undersigned, being the duly qualified and acting City Clerk-Administrator of the City of Ortonville, Minnesota do hereby certify that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council, duly called and held on the date therein indicated, insofar as such minutes relate to the \$2,458,515 General Obligation Disposal System Note of 2023A.

WITNESS my hand and City Clerk-Administrator's seal on June 5, 2023.

City Clerk-Administrator

(SEAL)

4.a.2. Resolution-Reimbursement Bond

RESOLUTION NO. 23-62
RESOLUTION ESTABLISHING PROCEDURES
RELATING TO COMPLIANCE WITH REIMBURSEMENT BOND
REGULATIONS UNDER THE INTERNAL REVENUE CODE

BE IT RESOLVED by the City Council (the "Council") of the City of Ortonville, Minnesota (the "City"), as follows upon subjected to city attorney approval:

1. Recitals.

(a) The Internal Revenue Service has issued Treasury Regulations, Section 1.150-2 (as the same may be amended or supplemented, the "Regulations"), dealing with "reimbursement bond" proceeds, being proceeds of bonds used to reimburse the City for any project expenditure paid by the City prior to the time of the issuance of those bonds.

(b) The Regulations generally require that the City (as the issuer of or the primary obligor under the bonds) make a declaration of intent to reimburse itself for such prior expenditures out of the proceeds of subsequently issued bonds, that such declaration be made not later than 60 days after the expenditure is actually paid, and that the bonding occur and the written reimbursement allocation be made from the proceeds of such bonds within 18 months after the later of (1) the date of payment of the expenditure or (2) the date the project is placed in service (but in no event more than 3 years after actual payment).

2. Official Intent Declaration. The Regulations, in the situations in which they apply, require the City to have declared an official intent (the "Declaration") to reimburse itself for previously paid project expenditures out of the proceeds of subsequently issued bonds. The Council hereby authorizes the City Clerk-Administrator to make the City's Declarations or to delegate from time to time that responsibility to other appropriate City employees. Each

Declaration shall comply with the requirements of the Regulations, including without limitation the following:

(a) Each Declaration shall be made not later than 60 days after payment of the applicable project cost and shall state that the City reasonably expects to reimburse itself for the expenditure out of the proceeds of a bond issue or similar borrowing. Each Declaration may be made substantially in the form of the Exhibit A which is attached to and made a part of this Resolution, or in any other format which may at the time comply with the Regulations.

(b) Each Declaration shall (1) contain a reasonably accurate description of the "project," as defined in the Regulations (which may include the property or program to be financed, as applicable), to which the expenditure relates and (2) state the maximum principal amount of bonding expected to be issued for that project.

(c) Care shall be taken so that the City, or its authorized representatives under this Resolution, not make Declarations in cases where the City doesn't reasonably expect that reimbursement bonds will be issued to finance the subject project costs, and the City officials are hereby authorized to consult with bond counsel to the City concerning the requirements of the Regulations and their application in particular circumstances.

(d) The Council shall be advised from time to time on the desirability and timing of the issuance of reimbursement bonds relating to project expenditures for which the City has made Declarations.

3. Reimbursement Allocations. If the City is acting as the issuer of the reimbursement bonds, the designated City officials shall also be responsible for making the "reimbursement allocations" described in the Regulations, being generally written allocations that evidence the City's use of the applicable bond proceeds to reimburse the original expenditures.

4. Effect. This Resolution shall amend and supplement all prior resolutions and/or procedures adopted by the City for compliance with the Regulations (or their predecessor versions), and, henceforth, in the event of any inconsistency, the provisions of this Resolution shall apply and govern.

Adopted on June 5, 2023, by the City Council of the City of Ortonville, Minnesota.

CERTIFICATION

The undersigned, being the duly qualified and acting City Clerk-Administrator of the City of Ortonville, Minnesota, hereby certifies the following:

The foregoing is true and correct copy of a Resolution on file and of official, publicly available record in the offices of the City, which Resolution relates to procedures of the City for compliance with certain IRS Regulations on reimbursement bonds. Said Resolution was duly adopted by the governing body of the City (the "Council") at a regular meeting of the Council held on June 5, 2023. The Council meeting was duly called, regularly held, open to the public, and held at the place at which meetings of the Council are regularly held. Councilmember Matt Karels moved the adoption of the Resolution, which motion was seconded by Councilmember Bill Powell. A vote being taken on the motion, the following members of the Council voted in favor of the motion to adopt the Resolution: Jake Dorry, Kim Sykora, Tom Dorry, Gene Hausauer, Ashley Berger, Bill Powell and Matt Karels and the following voted against the same: None.

Whereupon said Resolution was declared duly passed and adopted. The Resolution is in full force and effect and no action has been taken by the Council which would in any way alter or amend the Resolution.

WITNESS MY HAND officially as the City Clerk-Administrator of the City of Ortonville, Minnesota, on _____, 2023.

City Clerk-Administrator
City of Ortonville, Minnesota

EXHIBIT A
DECLARATION OF OFFICIAL INTENT

The undersigned, being the duly appointed and acting City Clerk-Administrator of the City of Ortonville, Minnesota (the "City"), pursuant to and for purposes of compliance with Treasury Regulations, Section 1.150-2 (the "Regulations"), under the Internal Revenue Code of 1986, as amended, hereby states and certifies on behalf of the City as follows:

1. The undersigned has been and is on the date hereof duly authorized by the City Council of the City to make and execute this Declaration of Official Intent (the "Declaration") for and on behalf of the City.

2. This Declaration relates to the following project, property or program (the "Project") and the costs thereof to be financed:

3. The City reasonably expects to reimburse itself for the payment of certain costs of the Project out of the proceeds of a bond issue or similar borrowing (the "Bonds") to be issued after the date of payment of such costs. As of the date hereof, the City reasonably expects that \$_____ is the maximum principal amount of the Bonds which will be issued to finance the Project.

4. Each expenditure to be reimbursed from the Bonds is or will be a capital expenditure or a cost of issuance, or any of the other types of expenditures described in Section 1.150-2(d)(3) of the Regulations.

5. As of the date hereof, the statements and expectations contained in this Declaration are believed to be reasonable and accurate.

Date: June 5, 2023.

City Clerk-Administrator
City of Ortonville, Minnesota

4.b. Suzanne Souza-4H Director

Suzanne came before the council to request if the 4-H could plant some wild grasses/pollinator garden up by the dog park. Council did not object to the idea and commended her on the work she has done with the 4-H.

4.c. Artie Arndt

Artie has discovered that there is pipes that run east from the airport land. He is asking for council approval to dump some dye into the pipes to determine the flow of water along with Sam from the water dept. to do the same.

A motion was made by Berger and seconded by Sykora and passed unanimously to give approval to Artie and Sam to dump dye into some pipes off of the airport land.

CONSENT AGENDA:

Mayor Hausauer asked if there were any additions, corrections, or deletions to be made to the Consent Agenda:

A motion was made by Karels and seconded by Berger and passed unanimously to approve the Consent Agenda as presented.

APPROVAL OF MINUTES:

6.a.*Approve Minutes Regular Council Meeting 5/15/23

A motion was made by Karels and seconded by Berger and passed to approve the council minutes of the 5/15/23 meeting.

PUBLIC HEARINGS:

7.a.

ACCEPTANCE OF BOARD AND COMMITTEE MINUTES AND, WHERE NECESSARY, COUNCIL ACTION ON THEIR RECOMMENDATIONS:

8.a.*Street-Utility Meeting Minutes 5/15/23

8.a.1. Recommendation to change parking restrictions on snow policy

8.a.2. Recommendation to move forward on courthouse alley

A motion was made by Powell and seconded by Karels and passed unanimously to adopt the recommendation of the Street Committee to move forward on the courthouse alley.

After discussion Sykora moved that an amendment to the recommendation be adopted that (3) all of the alley that was disturbed with the underground replacement will also need resurfacing. Bob did say that there is a contingency built into the project budget to cover this sort of item and (4) the alley that is adjacent to the retaining wall will need to be completed also. The wall would be a concrete wall constructed in conjunction with the concrete wall along Lincoln Ave.

The motion to amend was seconded by T. Dorry and passed unanimously. After further discussion, the amendment was approved. Upon roll call vote the motion as amended was approved.

8.b.*EDA Meeting Minutes 5/9/23

8.b.1. EDA By-Laws

A motion was made by Karels and seconded by Berger and passed unanimously to approve the change of the EDA By-Laws which entailed the modification to the meeting frequency and location.

8.c.*Street-Utility Meeting Minutes 5/31/23

8.c.1. Recommendation for city to repair tiles

A motion was made by Karels and seconded by Berger and passed to repair the tiles behind Econo Lodge that were found to be broken.

8.c.2 Recommendation on ordering/purchasing tandem truck

T. Dorry moved and Karels seconded that the following Resolution be adopted:

RESOLUTION 23-63
RESOLUTION APPROVING THE ORDERING/PURCHASING OF A TANDEM TRUCK FOR THE STREET DEPARTMENT

BE IT AND IT IS HEREBY RESOLVED by the Council of the City of Ortonville to approve the ordering/purchasing of a tandem truck in the amount of \$137,342.00.

Upon roll call vote the following voted Aye: J. Dorry, Sykora, T. Dorry, Hausauer, Berger, Powell and Karels. Nay: None.

Resolution 23-63 passed this 5th day of June 2023.

APPROVED:

ATTEST:

Gene Hausauer
Mayor

Debra K. Ellingson
Deputy City Clerk

8.d.*OAHS Meeting Minutes 3/22/23

8.e.*OAHS Financial Statements for March 2023

8.f.*OAHS Meeting Minutes 4/26/23

8.g.*OAHS Financial Statements for April 2023

STAFF REPORTS:

9.a. Bill reported from the Clean Up Committee that the clean up days went very well. They had filled 6 big dumpsters with approximately 120 people that went through. Another successful year.

NEW BUSINESS:

10.a.*Resolution for Airport Maintenance & Operations Grant

Karels moved and Berger seconded that the following Resolution be adopted:

RESOLUTION 23-64
RESOLUTION APPROVING AUTHORIZATION TO EXECUTE MINNESOTA DEPARTMENT OF TRANSPORTATION AIRPORT MAINTENANCE AND OPERATION GRANT CONTRACT

It is resolved by the City of Ortonville as follows:

1. That the State of Minnesota Agreement No. 1053304, "Airport Maintenance and Operation Grant Contract," at the Ortonville Municipal Airport is accepted.
2. That the Mayor and Clerk-Administrator are authorized to execute this Contract and any amendments on behalf of the City of Ortonville.

Upon Roll Call vote the following voted Aye: J. Dorry, Sykora, T. Dorry, Hausauer, Berger, Powell and Karels. Nay: None.

Resolution 23-64 passed this 6th day of June 2023.

APPROVED:

ATTEST:

Gene Hausauer
Mayor

Debra K. Ellingson
Deputy City Clerk

10.b*Braun Intertec Proposal

Karels moved and Berger seconded that the following Resolution be adopted:

RESOLUTION 23-65
RESOLUTION APPROVING PROPOSAL WITH BRAUN INTERTEC FOR THE 2022
ORTONVILLE UTILITY AND STREET IMPROVEMENTS

BE IT AND IT IS HEREBY RESOLVED by the Council of the City of Ortonville to authorize the Mayor and/or the City Clerk-Administrator to enter into an agreement with Braun Intertec for construction materials testing services as they relate to the 2022 Ortonville Underground Utility and Street Improvements along portions of Stephens Ave., Eastvold Ave., Roy Street, Jackson Ave., Minnesota Street, 4th Street, 5th Street and Lincoln Ave.

Upon roll call vote the following voted Aye: J. Dorry, Sykora, T. Dorry, Hausauer, Berger, Powell and Karels. Nay: None.

Resolution 23-65 passed this 5th day of June 2023.

APPROVED:

ATTEST:

Gene Hausauer
Mayor

Debra K. Ellingson
Deputy City Clerk

10.c. Seeking Volunteers-Kim

Council woman Kim is working on getting a group of volunteers to spruce up the town. She would be in contact with Scott on some projects that need attention. Examples: Painting, trimming, cleaning up flower beds, etc. She would like to get a list from Scott on a weekly basis.

10.d.*Change of Next Meeting due to Holiday 6-20-23

10.e. Resignation Letter-Justin Leuthardt-Water/Wastewater Dept.

Karels moved and Berger seconded that the following Resolution be adopted:

RESOLUTION 23-66
RESOLUTION ACCEPTING RESIGNATION OF JUSTIN LEUTHARDT

BE IT AND IT IS HEREBY RESOLVED by the Council of the City of Ortonville to accept the resignation of Justin Leuthardt from the water/wastewater position as of June 30, 2023.

Upon roll call vote the following voted Aye: J. Dorry, Sykora, T. Dorry, Hausauer, Berger, Powell and Karels. Nay: None.

Resolution 23-66 passed this 5th day of June 2023.

APPROVED:

ATTEST:

Gene Hausauer
Mayor

Debra K. Ellingson
Deputy City Clerk

UNFINISHED BUSINESS:

11. Hockey Boards-Jake

Councilman Jake is seeking volunteers to save the Hockey Boards from being torn down. He will oversee the volunteers and the reconstruction of the boards. The council agreed for Jake to move forward and try it for a year and then see if it is utilized to continue on.

CONSIDERATION OF BILLS:

12.a. Approve Expenditures-6/5/23

Berger moved and J. Dorry seconded that the following Resolution be adopted:

RESOLUTION 23-67
RESOLUTION APPROVING EXPENDITURES OF 6/5/23

BE IT AND IT IS HEREBY RESOLVED that the expenditures as listed in the Council report and on file at the City Clerk's Office in the amount of \$857,744.76 to be paid.

Upon roll call vote the following voted Aye: J. Dorry, Sykora, T. Dorry, Hausauer, Powell and Karels. Nay: None: Abstain: Berger.

Resolution 23-67 passed this 5th day of June 2023.

APPROVED:

ATTEST:

Gene Hausauer
Mayor

Debra K. Ellingson
Deputy City Clerk

NEW ACTIONS:

13.

EXECUTIVE SESSION:

14.

ADJOURNMENT:

15. Meeting adjourned at 6:00 P.M.

APPROVED:

ATTEST:

Gene Hausauer
Mayor

Debra K. Ellingson
Deputy City Clerk