

## RESOLUTION 21-028

**AUTHORIZING THE MODIFICATION OF THE INTEREST RATE AND PAYMENT SCHEDULE REGARDING THE LEASE AGREEMENT DATED JULY 19, 2013, THE CERTIFICATES OF PARTICIPATION (CERTIFICATE OF PARTICIPATION (BROOKINGS HEALTH SYSTEM PROJECT), SERIES 2013, THE LEASE AGREEMENT DATED NOVEMBER 18, 2015, AND CERTIFICATES OF PARTICIPATION (BROOKINGS HEALTH SYSTEM PROJECT), SERIES 2015B, AND AUTHORIZING THE EXECUTION OF SUCH DOCUMENTS AS ARE NECESSARY TO CARRY OUT THE MODIFICATION.**

WHEREAS, the City of Brookings (the “City”) is a duly organized South Dakota municipality with the power to establish, construct, purchase, and maintain hospitals, medical clinics, nursing facilities and homes for the aged (collectively the “Brookings Health System”); and

WHEREAS, the City has the power pursuant to SDCL Chapters 34-9 and 9-12 to lease and lease-purchase real and personal property; and

WHEREAS, the City had a Lease-Purchase Agreement, dated as of October 1, 2012 and a Lease- Purchase Agreement Date November 18, 2015 (collectively the “Leases”) with First Bank & Trust, Brookings, South Dakota, as Trustee;

WHEREAS, the Trustee has executed and delivered a Declaration of Trust, dated as of October 1, 2012 and November 18, 2015 (the Trust Agreements), joined in by the City, pursuant to which is has issued Certificates of Participation in the lease payments to be made by the City under the Leases, Series 2013 and Series 2015 (collectively the “Certificates”);

WHEREAS, the Hospital has negotiated a lowering of the interest rate on the Leases and Certificates.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKINGS as follows:

**Section 1. Declaration of Necessity.** The governing body of the City in accordance SDCL §§ 6-8B-30 through 6-8B-52, does hereby declare a necessity and in the best interests of the City to modify the interest rate on the Certificates to be dated and effective April 1, 2021, which will reduce the debt service costs.

**Section 2. Authorization and Approval of Transactions.** Subject to the terms and conditions set forth herein, the City hereby (i) authorizes or approving modification of the interest rates on the Leases and Certificates; (ii) authorizes or approves the execution of supplemental Trust Agreements for the purpose of issuing such modification of the Certificates, and (iii) authorizing the execution of an amendment to the Leases to provide for Lease Payments at least sufficient to pay amounts representing principal, premium, if any, and interest with respect to the Certificates then to be Outstanding.

Section 3. **Approval of Documents and Legal Description.** The Mayor, Finance Officer and City Clerk (the "Authorized Officers") are hereby authorized and empowered for and on behalf of the City to approve and execute (i) the Certificates; (ii) the supplemental Trust Agreements, and (iii) the amendment to the Leases.

Section 4. **Tax Matters.** The City covenants and agrees with the registered owners from time to time of the Leases and Certificates 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 component or interest on the Leases or Certificates 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 Certificates will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 5. **Miscellaneous.** Each Authorized Officer and any other agent or employee of the City is hereby authorized and empowered to take such other actions and execute and deliver such other instruments and agreements, including appropriate tax certifications and other closing certificates, as may be necessary or appropriate for the purposes of consummating the transactions contemplated herein, the necessity therefor and the appropriateness thereof to be evidenced conclusively by any such Authorized Officer's taking any such action or executing and delivering any such instrument, agreement or certificate and all actions taken heretofore and hereafter pursuant to the authority hereof are hereby authorized, ratified and approved for and as the actions of the City.

Section 6. **Incontestability.** Pursuant to SDCL 6-8B-30 through 6-8B-52, the Leases and Certificates are incontestable for any reason after delivery for value.

Section 7. **Conflicting Resolutions Repealed.** All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Passed, Adopted, and Approved this 27<sup>th</sup> day of April, 2021.

CITY OF BROOKINGS, SD

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Keith W. Corbett, Mayor

ATTEST:

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Bonnie Foster, City Clerk