

RESOLUTION NO. 2826

A RESOLUTION AUTHORIZING THE ISSUANCE OF TAXABLE ELECTRIC GENERATION REVENUE REFUNDING BONDS; PLEDGING CERTAIN REVENUES OF THE CITY TO THE PAYMENT OF SAID BONDS; AUTHORIZING OFFICERS OF THE CITY TO APPROVE, EXECUTE AND DELIVER CERTAIN AGREEMENTS AND DOCUMENTS RELATING TO THE BONDS

BE IT RESOLVED by the City Commission of the City of Madison, South Dakota (the City), as follows:

Section 1. Recitals, Authorization and Findings.

1.1. Recitals and Authorization. (a) The City is a political subdivision of the State of South Dakota and a body corporate and politic. Under the laws of the State of South Dakota, the City is possessed of all powers which are necessary, requisite or proper for the government and administration of its local and municipal matters, and all rights and powers that now or hereafter may be granted to municipalities by the laws of the State of South Dakota. The City currently operates a municipal electric utility (the Electric Utility), consisting of a system or part of a system for the purpose of providing electricity for municipal, industrial and domestic purposes.

(b) The City is authorized to borrow money and issue its revenue bonds under South Dakota Codified Laws, Chapter 9-40 (the Act), in order to defray the cost of acquiring and constructing improvements to the Electric Utility. Pursuant to Resolution No. 2515 of the City adopted on January 26, 2004, and an Indenture of Trust dated as of March 15, 2004 (the Original Indenture), between the City and The First National Bank in Sioux Falls, in Sioux Falls, South Dakota (the Trustee), the City has heretofore issued its Taxable Electric Generation Facility Revenue Bonds, Series 2004 (the Series 2004 Bonds), in the original aggregate principal amount not to exceed \$4,000,000, for the purpose of constructing improvements to the Electric Utility (the Improvements).

(c) As authorized by the Act, the City has determined that it is necessary and desirable to issue additional electric revenue bonds (the Bonds) under Section 4-2 of the Original Indenture, in one or more series, the proceeds of which would be used, together with any additional funds of the City which might be required, to refund in advance of maturity the Series 2004 Bonds maturing in the years 2015 through 2025, currently outstanding in the aggregate principal amount of \$3,195,000 (the Refunded Bonds).

(d) The City is authorized to make all pledges, covenants and agreements authorized by law for the protection of the owners of the Bonds, including, without limitation, those covenants set forth in Sections 9-40-16 and 9-40-17 of the Act. The Bonds are payable solely from the Net Revenues, as defined in the Indenture, derived from the operation of the

Improvements and shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations.

1.2. Findings. It is hereby found, determined and declared to be in the best interest of the City to issue the Bonds to be designated “City of Madison, South Dakota, Taxable Electric Generation Revenue Refunding Bonds, Series 2013,” in accordance with the Act and under the terms and conditions of the Original Indenture, as amended and supplemented by a First Supplemental Indenture of Trust (the Supplemental Indenture; the Original Indenture as amended and supplemented by the Supplemental Indenture is referred to herein as the Indenture) to be entered into between the City and the Trustee.

Section 2. Authorization of Bonds.

2.1. The City hereby authorizes the issuance of the Bonds in accordance with the provisions of the Act, the Indenture and this Resolution. The Bonds shall be issued in principal amount not to exceed the sum of (a) the amount necessary to refund the Refunded Bonds, (b) the amount necessary to pay costs of issuance of the Bonds, including underwriter’s discount in an amount not to exceed 1.47% of the principal amount of the Bonds, and (c) an allowance (not exceeding 2% of the principal amount of the Bonds) for original issue discount, all subject to the limitations of the laws of the State of South Dakota. The Original Indenture permits the issuance of additional bonds payable on a parity with the Series 2004 Bonds, and it is hereby found that the tests set forth in the Original Indenture for the issuance of additional bonds can be met.

2.2. The Bonds shall be issued in such form, mature at the time or times and on such terms, consistent with this Resolution, as shall be provided in the Supplemental Indenture and other agreements whose execution and delivery is authorized by Section 5 of this Resolution.

2.3. The Bonds shall bear interest at the rate or rates per annum provided in the Supplemental Indenture authorized by Section 5 of this Resolution, but the average yield of the Bonds shall not exceed 4.00% per annum.

Section 3. Pledge of Revenues. The City shall pledge the Net Revenues derived from the operation of the Improvements to secure the Bonds, as set forth in the Indenture.

Section 4. Retention of Underwriter and Bond Counsel. The City hereby retains Dougherty & Company LLC, in Sioux Falls, South Dakota, as underwriter of the Bonds. The City hereby retains the firm of Dorsey & Whitney LLP, Minneapolis, Minnesota, to act as bond counsel and disclosure counsel with respect to the Bonds.

Section 5. Authorization of Documents. In connection with the authorization, issuance and delivery of the Bonds, the officers of the City designated by Section 6 of this Resolution shall enter into, execute and deliver the following indenture, agreements and documents:

(A) the Supplemental Indenture to provide for the issuance of the Bonds and setting forth the terms thereof;

(B) the Bond Purchase Agreement or similar agreement providing for sale of Bonds at an underwriters' discount not exceeding 1.47% and an original issue discount not exceeding 2% of the principal amount of the Bonds;

(C) a continuing disclosure agreement or undertaking satisfying the requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended; and

(D) such other documents, agreements or instruments as may be necessary to make covenants and recite facts required to demonstrate the validity and enforceability of Bonds under the laws of the State of South Dakota and to effectuate the terms and intent of this Resolution. The execution and delivery of such indenture, agreements and documents is hereby authorized and directed, the indenture, agreements and documents to be in such form and to contain such terms, consistent with this Resolution, as the officers of the City designated herein shall determine to be necessary and desirable.

Section 6. City Officers. The Mayor, Finance Officer and City Attorney of the City are hereby authorized and directed to execute and deliver the Indenture, agreements and documents authorized by Section 5 hereof. Execution and delivery of such items by the Mayor, City Finance Officer and City Attorney shall constitute evidence that such items are consistent with the terms of this Resolution and the Indenture and have been duly authorized, executed and delivered by the City and are enforceable against the City in accordance with their terms, subject to customary exceptions relating to bankruptcy, reorganization, insolvency and other laws affecting creditors' rights. The Mayor, City Finance Officer and City Attorney are further authorized to take such other actions as may be required to effectuate the terms and intent of this Resolution. In the event of the absence or disability of the Mayor, City Finance Officer or City Attorney, the Acting President of the City Commission, the Assistant to the Finance Officer or the Deputy City Attorney are hereby authorized to act in the place and stead of the Mayor, City Finance Officer and City Attorney, and to take all actions and execute all documents approved hereby.

Section 7. Official Statement. The Bonds will be offered for sale by means of an Official Statement. The Mayor, the City Attorney, and the Finance Officer are authorized, in cooperation with the Underwriter and Bond Counsel, to prepare an Official Statement to be distributed to prospective purchasers of the Bonds. The Mayor and the Finance Officer are hereby authorized and directed to approve, and, if requested, to execute the final Official Statement. The City hereby consents to the distribution of the Official Statement to prospective purchasers of the Bonds.

Section 8. Amendment. This Resolution may be amended at any time prior to the issuance of the Bonds by adoption of an administrative resolution.

Upon vote being taken thereon, the following voted in favor thereof:

Commissioners Abraham, Delzer, Waldner, Ericsson and Mayor Hexom

and the following voted against the same:

None

whereupon the resolution was declared duly passed and adopted and was approved and signed by the Mayor and attested by the City Finance Officer.

CITY OF MADISON

/s/Gene Hexom
Mayor

ATTEST: /s/Jeff Heinemeyer
City Finance Officer

Adopted: November 26, 2012
Published: November 29, 2012
Effective: December 20, 2012