



Mission Statement

To provide exemplary experiences, services & spaces that create opportunities for everyone to learn, engage and thrive.

YANKTON BOARD OF CITY COMMISSIONERS

Work Session Meeting beginning at 6:00 P.M.

Monday, June 27, 2022

City of Yankton Community Meeting Room

Located at the Career Manufacturing Technical Education Academy formerly known as Technical Education Center • **1200 W. 21st Street • Room 114**

If you would like to watch the City Commission meeting you can do so by accessing the City of Yankton's YouTube Live Channel.

<https://www.youtube.com/channel/UCD1a1hf1dIkiLVSVXnmdRQg/live>

Rebroadcast Schedule: Tuesday @ 7:30pm, on channels 3 & 45

1. **Roll Call**
2. **Public Appearances**
3. **Huether Family Aquatics Center Financing**
4. **Other Business**

Other business is a time for City Commissioners to address the commission regarding matters not on the agenda. These items will be deliberated by the governing body and will not be acted upon at this time. Items mentioned may be added to a future City Commission meeting or work session for deliberation or action.

5. **Adjourn the Work Session of June 27, 2022**

MEMORANDUM

TO: Yankton City Commission
FROM: Amy Leon, City Manager
RE: Huether Family Aquatic Center Financing
DATE: June 24, 2022

At the June 13, 2022-2026 CIP budget meeting, staff requested your guidance on a funding proposal for the Huether Family Aquatics Center. Through the discussion, it was determined that the Commission was interested in receiving more information relating to the financing strategy proposed by staff. The purpose of this memo is to thoroughly explain the proposal and provide documentation supporting the request.

Staff recommends the City Commission directs the development of a resolution for consideration to do the following:

- Step 1 – utilize the balance in the construction fund account to meet the annual debt service shortfall (\$420,176.00)
- Step 2 – pay down the loan balance in 2025 to make the annual debt service equal to the annual opt out levy (\$572,600.99)
- Step 3 – transfer the remaining balance in the construction fund account to an aquatics operation and maintenance account.

As the City Commission is aware, many of our facilities that we are responsible to maintain and operate are aging and require ongoing maintenance and repair. City staff does our best to extend the life of the equipment and buildings we use. Just like in our own homes, however, at some point replacement becomes necessary. There is also equipment in our facilities that requires additional investment and ongoing maintenance. Just in the last two weeks week, for example, we discussed the need to move up the roof replacement at the library. While anticipated in the future, this \$150,000 expense was unplanned in the budget and will be taken directly from the general fund. Likewise, the Fire Department must replace a generator that is unable to be repaired. This is another approximately \$50,000 from the general fund that was unplanned for the current budget year.

These are just a couple of examples of how increasingly difficult it has become to continue to provide basic services, infrastructure, and amenities to the public. More and more we are seeing projects being funded only when we can leverage dollars from the private sector as a sponsor or naming right, or if we are able to identify a grant that we can match with public funds. Even then, when that facility or amenity has reached its useful life, we are scrambling to identify enough capital dollars to repair, maintain, or replace it. This will continue to be a source of frustration for us as we continue to evaluate our resources.

Early on when Dive In Yankton began to discuss the development of an aquatics facility, we were keenly aware that the cost of constructing a facility of this kind was just one hurdle in the process. Long term repair and maintenance will be an entirely different matter. While we do expect far more revenue from

this facility than the previous Memorial Park Pool, we also know that this facility is far more expensive to operate and maintain. Likewise, with more amenities and features associated with the facility, there will be more investment necessary when the facility begins to age.

Staff has contacted Water Technologies to develop a Capital Improvement Plan for that facility. Once available, we will share the equipment replacement and maintenance schedule with the Commission. Once we have that document, consider that it will be in today's dollars. In the future, particularly considering inflation, prices will be higher.

It is very important to me that we do not place an encumbrance on future City Commissioners, City staff, or especially the taxpayer with the costs of maintaining the facility. If we can identify a strategy to lighten the financial burden for the future, that will ensure generations that follow us can fully enjoy the facility. Not only does this make financial sense, but it also reflects the commitments we made to the community in our strategic plan.

At the last meeting we talked about creating a fund for the future maintenance and operation of the facility. The following plan sets forth a solution to create such a fund and save the citizens of Yankton about \$300,000 in interest.

Here is what is being proposed:

The City of Yankton was fortunate to receive good bids on the project, have an abundance of private sector support for the project, and a supportive City Commission at the time the project was being planned and budgeted.

The total project cost with engineering, design and construction ended up being \$12,997,729.61.

The annual opt out amount is capped at \$884,030.00. The annual debt service on the bond is \$934,131.36. Depending on the levy, there is an annual payment of approximately \$50,000.00 (\$54,461.97 2023 estimate) that needs to be met.

According to the bond documents, the funds borrowed can be utilized only for construction costs for the project, issuance of the bonds, or to prepay the lease. It is important to remember that legally these purposes and only these purposes are the appropriate use of the bonds according to bond counsel. Also, according to the bond documents, the earliest any early payback can occur is 2025.

The \$2,000,000.00 that the City Commission previously allocated out of the 506 to the project is not governed by the bond requirements. Because these funds are not tied to the bond documents, these funds can be taken out of the construction account. This is per Tobin Morris, bond counsel on 06-15-22. In keeping with the spirit of the challenge that was made to the community by a previous City Commission, we suggest that these funds still be utilized toward the aquatics center. By allocating them by resolution to future operation and maintenance we are following through on the commitment to the community and to future users.

In addition to the \$2,000,000.00 allocated from the 506, there was approximately \$2,000,000.00 raised in the public, which also is not subject to bond conditions. Funds were pledged over a period of time and therefore have not all been received. However, like the dollars allocated from the 506, the promise

to the community was that we would utilize these donations for the construction of the aquatics center. That promise was an obligation to direct those funds towards the project.

As the project closes out, there are a few items left to be purchased out of the construction account. If this plan is amenable, once that occurs and the project is fully accepted, we would move forward with a resolution for your consideration.

We will not have a final balance for the new aquatics operation and maintenance account (if created) until the early payment in 2025 making the annual debt service equal to the annual opt out levy is completed.

Resolution & Affidavit of Publication

RESOLUTION #19-33

AUTHORIZING THE CONSTRUCTION AND EQUIPPING OF A NEW AQUATICS CENTER AT FANTLE MEMORIAL PARK PURSUANT TO A LEASE AGREEMENT; APPROVING THE EXECUTION OF AN IRREVOCABLE DECLARATION OF TRUST BY TRUSTEE; PROVIDING FOR THE EXECUTION, SALE AND DELIVERY OF NOT TO EXCEED \$14,000,000 AGGREGATE ORIGINAL AMOUNT OF CERTIFICATES OF PARTICIPATION IN THE LEASE AGREEMENT PURSUANT TO A CERTIFICATE PURCHASE AGREEMENT AND THE APPLICATION OF THE PROCEEDS THEREOF TO CONSTRUCT AND EQUIP A NEW AQUATICS CENTER AT FANTLE MEMORIAL PARK AND APPROVING AND AUTHORIZING A GROUND LEASE TO THE TRUSTEE; AND AUTHORIZING AND APPROVING OTHER ACTIONS AND AGREEMENTS NECESSARY TO CONSUMMATE THE CONTEMPLATED IMPROVEMENT AND FINANCING

WHEREAS, the City of Yankton (the "City") is a duly organized South Dakota municipality: and

WHEREAS, the City has the power pursuant to SDCL Chapter 9-12 and Section 9-21-18.1 to lease and lease-purchase real and personal property; and

WHEREAS, it is the opinion of the City Commission that the City would be best served by entering into a Ground Lease and Lease Agreement; and

WHEREAS, it is declared necessary that a Declaration of Trust (the "Declaration of Trust") be executed by the Trustee (the "Trustee") for the purpose of financing the construction of a new aquatics center at Fantle Memorial Park.

WHEREAS, the City desires to the construct a new aquatics center at Fantle Memorial Park and for such purpose intends to enter into a Ground Lease with the City as lessor and the Trustee as lessee (the "Ground Lease"), Lease Agreement with the Trustee as lessor and the City as lessee ("the Lease Agreement") and Certificates of Participation, Series 2019 (the "Certificates") payable as to principal in the aggregate original amount not to exceed \$14,000,000 evidencing proportionate interests of the owners in the Lease Agreement;

WHEREAS, the proceeds of the Certificates will be used to fund the construction and equipping of the new aquatics center; and

WHEREAS, 66% of the City voters have voted to opt out of the tax limitation measure currently in statute up to \$884,043.00 annually starting with calendar year 2019 taxes payable in the calendar year 2020. This opt out will be for no more than twenty (20) years, which will be through taxes payable in the calendar year 2039 the taxes to pay for annual lease payments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF YANKTON as follows:

Section 1. Definitions. In addition to the words and terms elsewhere defined in this 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” SDCL Chapter 9-12 and Section 9-21-18.1.

“Authorized Officer” means the Mayor, Finance Manager, 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.

“Bond Counsel/Certificate 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.

“Certificate Purchase Agreement” means the Certificate Purchase Agreement authorized pursuant to and described in Section 12 hereof by and between the City and the Underwriter.

“Certificates” means the Certificates of Participation in the Lease Agreement.

“City” means the City of Yankton, South Dakota.

“Declaration of Trust” means the trust agreement entered into by the Trustee and the City.

“Ground Lease” means the ground lease agreement between the City, as lessor, and the Trustee, as lessee, and any amendment thereof or supplement thereto.

“Improvements” mean the new aquatics center at Fantle Memorial Park, including equipment and furnishings thereof.

“Lease Agreement” means the lease purchase agreement between the Trustee, as lessor, and the City, as lessee, and any amendment thereof or supplement thereto.

“Property” means the real property upon which the Improvements will be made located at 2020 Douglas Avenue and legal described as the North West Quarter (NW¼) of the South East Quarter (SE¼) of the North West Quarter (NW¼), Section Seven (S7), Township ninety-three North (T93N), Range fifty-five West (55W) of the fifth Principal Meridian, City of Yankton, Yankton County, South Dakota.

“Opt-Out Taxes” means the \$884,043 of annual taxes collected in 2019 through 2039.

“Rating Agency” means one or more of the following rating agencies: S&P Global Ratings, Moody's Investors Service Inc. and Fitch IBCA, Inc. Declaration of Necessity and Approval of Improvements.

The governing body of the City in accordance with the Act does hereby declare a necessity to enter into the Ground Lease, Lease Agreement and Trust Indenture; and approves the construction of the Improvements.

“Underwriter” means Dougherty & Company, Inc., Pierre, South Dakota acting for and on behalf of itself and such securities dealers as it may designate.

Section 2. **Authorization and Approval of Transactions.** Subject to the terms and conditions set forth herein, the City hereby (i) authorizes the lease of the Property to the Trustee for a period not to exceed 30 years pursuant to the Ground Lease, (ii) authorizes the lease of the Property from the Trustee pursuant to the Lease Agreement on an annual appropriation basis for an initial lease term and renewal terms not to exceed in the aggregate 20 years, (iii) approves the Trustee's execution of the Declaration of Trust, (iv) approves the Trustee's execution and delivery of the Certificates, payable as to principal in an aggregate original amount not exceeding \$14,000,000 pursuant to the Declaration of Trust and a Certificate Purchase Agreement between the City and the Underwriter (the “Certificate Purchase Agreement”) and the use of the proceeds thereof to finance the construction and equipping of the Improvements, and to pay the expenses incurred in connection with the execution and delivery of the Certificates.

Section 3. **Approval of Documents and Legal Description.** The Authorized Officers of the City are hereby authorized and empowered for and on behalf of the City to approve and execute (i) the Declaration of Trust, (ii) the Ground Lease, (iii) the Lease Agreement, (iv) the Certificate Purchase Agreement, and (v) a Continuing Disclosure Certificate in substantially the respective forms to be filed with the Finance Officer and open to public inspection during regular business hours. The Authorized Officers are authorized and directed to approve the entire legal description or a partial legal description of the Property to be included in the Ground Lease and Lease Agreement.

Section 4. **Certificates of Participation.** The Certificates shall be executed and delivered in fully-registered form, shall be dated and numbered, shall be payable as to principal in \$5,000 denominations and integral multiples thereof and in such amounts (not exceeding in the aggregate \$14,000,000) and on such dates (not later than thirty (30) years), shall be payable as to interest at such rate or rates to be negotiated by the Authorized Officer and shall be subject to prepayment upon such terms and conditions, in such amounts and on such dates as may be specified in the Declaration of Trust and in the executed Certificate Purchase Agreement. The Authorized Officers are hereby authorized and empowered for and on behalf of the City to approve the Certificate Purchase Agreement, his or her execution and delivery thereof to evidence conclusively the City's approval thereof.

Section 5. **Annual Appropriation.** The Lease Agreement is an annual appropriation lease subject to an annual appropriation by the City for each fiscal year.

Section 6. **Annual Payment.** Upon each annual appropriation, the City covenants that if at any time the Opt-Out Taxes are insufficient to make the annual Lease Payment, that it shall interfund transfer or loan amounts sufficient to make the annual Lease payment under the Lease Agreement.

Section 7. **Segregation of Opt-out Taxes.** The City does hereby segregate the Opt-Out Taxes from other funds of the City and shall use the Opt-Out Taxes solely for the annually appropriated lease payments due under the Lease Agreement.

Section 8. **Bond Counsel.** The Authorized Officers are authorized to retain the Bond Counsel upon such terms as they approve.

Section 9. **Rating Agency.** The Authorized Officers are authorized to retain the Rating Agency upon such terms as they approve.

Section 10. **Trustee.** The Authorized Officers are authorized to retain the Trustee upon such terms as they approve.

Section 11. **Underwriter.** The Authorized Officers are authorized to retain the Underwriter upon such terms as they approve.

Section 12. **Certificate Purchase Agreement.** The Certificates shall be sold to the Underwriter at a price to be set forth in the Certificate Purchase Agreement. The Authorized Officers in consultation with the Placement Agent, are authorized to make such changes in the structuring of the terms and sale of the Certificates 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 Certificates less than that authorized herein, to sell any or all of the Certificates as term Certificates with annual mandatory redemption requirements which will produce substantially the same annual principal reductions as authorized herein, to change the dated date of the, and to adjust principal and interest payment dates and redemption dates of the Certificates. The form of the Certificate shall be conformed to reflect any changes, if any, as hereinbefore mentioned. The Mayor is hereby authorized to execute and the Finance Officer is authorized to attest the Certificate Purchase Agreement with the Underwriter providing for the purchase and sale of the Certificates. The Certificate Purchase Agreement shall be in form and content acceptable to the Mayor and the execution thereof by either of them to constitute conclusive evidence thereof; provided the Certificate Purchase Agreement effects the sale of the Certificates in accordance with the provisions of this Resolution, and is not inconsistent with the terms hereof. The Mayor and Finance Officer are authorized to cause the Certificates to be authenticated and delivered by the Trustee to the Underwriter and to execute, publish, and deliver all certificates and documents, including the Official Statement, and closing certificates and documents, as they shall deem necessary in connection with the sale and delivery of the Certificates.

Section 13. **Official Statement.** The Authorized Officers and the Underwriter are hereby authorized and directed to provide for the preparation and distribution of a Preliminary Official Statement describing the Certificates (the "Preliminary Official Statement"). After the Certificates have been sold, the Authorized Officers 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 and all other applicable rules of the Municipal Securities Rulemaking Board, the 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 14. **Tax Matters.** The City covenants and agrees with the registered owners from time to time of the 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 Lease Agreement and 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.

The Authorized Officers charged with the responsibility for issuing the Certificates 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 Certificates, it is reasonably expected that the proceeds of the Certificates will be used in a manner that would not cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

Section 15. **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 16. **Invalidity.** If any one or more of the provisions of this 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 this 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 17. **Continuing Disclosure.** 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 Certificates. The Mayor is authorized to execute at the Closing of the sale of the Certificates, an agreement for the benefit of and enforceable by the owners of the Certificates 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 Certificates 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 18. **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 Certificates attached hereto. The City appoints the Finance Manager as the chief compliance officer.

Section 19. **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 22 day of JULY 2019.



CITY OF YANKTON, SOUTH DAKOTA

A handwritten signature in black ink is written over a horizontal line. Below the line, the word "Mayor" is printed.

ATTEST:

A handwritten signature in black ink is written over a horizontal line. Below the line, the text "Finance Officer" is printed.



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

Definitions

“Compliance Officer” means the Finance Manager of the Issuer.
“Issuer” means the City of Yankton.

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 or tax-advantaged) subject to the continuing disclosure requirements of Rule 15c2-12(b)(5) (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 disseminating 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 policies 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 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 Yankton, this 22 day of JULY, 2019.



 Mayor

ATTEST:



 Finance Officer



AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

CITY OF YANKTON
PO BOX 176
YANKTON SD 57078


STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

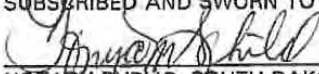
JACKIE LAMMERS, BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT (S)HE IS THE CLASSIFIED MANAGER OF YANKTON MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED 7 + 31 CHAMBER OF THE BOARD

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 31st DAY OF July, 2019
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$452.94 ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 07/31/2019

FILED ON: 07/31/2019



SUBSCRIBED AND SWORN TO BEFORE ME THIS 31st DAY OF July, 2019


NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 08/19/2021

RECEIVED
AUG 05 2019

Dept. of Finance
City of Yankton

Ad text : 7+31

CHAMBER OF THE BOARD OF CITY COMMISSIONERS
YANKTON, SOUTH DAKOTA
July 22nd, 2019

Board of City Commissioners of the City of Yankton was called to order by Mayor Johnson.
Roll Call: Present: Commissioners Ferdig, Hoffner, Miner, Moser, Schramm and Webber. City Attorney Den Herder and City Manager Leon were also present. Absent: Commissioners Benson and Carda. Quorum present.

Action 19-186

Moved by Commissioner Webber, seconded by Commissioner Miner, to approve the Minutes of Regular Meeting of July 8th, 2019.

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

City Manager Leon submitted a written report giving an update on community projects and items of interest.

There were no public appearances at that time.

Action 19-187

Moved by Commissioner Moser, seconded by Commissioner Ferdig, that the following items on the Consent Agenda be approved.

1. Paddlers License Application Consideration of Memorandum 19-153 recommending approval of an application for a Paddlers License for Southwestern Advantage, representative Jurgen Vahter is requesting a license to go house to house selling educational books and materials from July 23 August 23, 2019.

2. Transient Merchant License

Consideration of Memorandum #19-158 recommending approval of the application from Scott Luken Sculptures, Transient Merchant License from August 15, 2019 September 15, 2019.

3. Establish public hearing for sale of alcoholic beverages

Establish August 12, 2019, as the date for the public hearing on the request for a Special Malt Beverage (on-sale) Retailers License for 1 day, August 17, 2019, from Yankton Rodeo Association (Douglas O Hevle, President), Rodeo Grounds, 404 Paddle Wheel Drive, Yankton, S.D.

4. Establish public hearing for sale of alcoholic beverages

Establish August 12, 2019, as the date for the public hearing on the request for a Special Events Retail (on-sale) Liquor License for 1 day, August 22, 2019, from Bens Brewing Co. (Ben Hanten, Owner), 222 West 3rd Street, Music at the Meridian, Parking Lot and Green Space Westside of Meridian Bridge & the enclosed area of Levee Street, Yankton, S.D

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

Action 19-188

Moved by Commissioner Miner, seconded by Commissioner Webber, to adopt Resolution 19-30. (Memorandum 19-154)

RESOLUTION 19-30

Special Events Parking Request

WHEREAS, the City Commission adopted an Ordinance allowing for no parking designation for special events within the City of Yankton; and

WHEREAS, this Resolution would authorize the City of Yankton to tow vehicles that are parked in the defined area or areas and times specified for Special Events; and

WHEREAS, Yankton Parks, Recreation & City Events has made a request to enact this no parking zone for their event on August 30, 2019.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves the Special Event Parking Request on Walnut Street from 2nd to 3rd Street, to be in effect on August 30, 2019 from 1:00 PM to 10:00 PM.

Roll Call: All members present voting Aye; voting Nay: None.
Motion adopted.

Action 19-189

Moved by Commissioner Webber, seconded by Commissioner Miner, to adopt Resolution 19-33. (Memorandum 19-163) Toby Morris, Senior Vice President with Dougherty Co., was present to answer questions and explain the bond issuance.

RESOLUTION 19-33

Authorizing The Construction And Equipping Of A New Aquatics Center At Fantle Memorial Park Pursuant To A Lease Agreement; Approving The Execution Of An Irrevocable Declaration Of Trust By Trustee; Providing For The Execution, Sale And Delivery Of Not To Exceed \$14,000,000 Aggregate Original Amount Of Certificates Of Participation In The Lease Agreement Pursuant To A Certificate Purchase Agreement And The Application Of The Proceeds Thereof To Construct And Equip A New Aquatics Center At Fantle Memorial Park And Approving And Authorizing A Ground Lease To The Trustee; And Authorizing And Approving Other Actions And Agreements Necessary To Consummate The Contemplated Improvement And Financing

WHEREAS, the City of Yankton (the City) is a duly organized South Dakota municipality; and
WHEREAS, the City has the power pursuant to SDCL Chapter 9-12 and Section 9-21-18.1 to lease and lease-purchase real and personal property; and

WHEREAS, it is the opinion of the City Commission that the City would be best served by entering into a Ground Lease and Lease Agreement; and

WHEREAS, it is declared necessary that a Declaration of Trust (the Declaration of Trust) be executed by the Trustee (the Trustee) for the purpose of financing the construction of a new aquatics center at Fantle Memorial Park.

WHEREAS, the City desires to the construct a new aquatics center at Fantle Memorial Park and for such purpose intends to enter into a Ground Lease with the City as lessor and the Trustee as lessee (the Ground Lease), Lease Agreement with the Trustee as lessor and the City as lessee (the Lease Agreement) and Certificates of Participation, Series 2019 (the Certificates) payable as to principal in the aggregate original amount not to exceed \$14,000,000 evidencing proportionate interests of the owners in the Lease Agreement;

WHEREAS, the proceeds of the Certificates will be used to fund the construction and equipping of the new aquatics center; and

WHEREAS, 66% of the City voters have voted to opt out of the tax limitation measure currently in statute up to \$884,043.00 annually starting with calendar year 2019 taxes payable in the calendar year 2020. This opt out will be for no more than twenty (20) years, which will be through taxes payable in the calendar year 2039 the taxes to pay for annual lease payments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF YANKTON as follows:

Definitions. In addition to the words and terms elsewhere defined in this 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" SDCL Chapter 9-12 and Section 9-21-18.1.

"Authorized Officer" means the Mayor, Finance Manager, 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.

"Bond Counsel/Certificate 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.

"Certificate Purchase Agreement" means the Certificate Purchase Agreement authorized pursuant to and described in Section 12 hereof by and between the City and the Underwriter.

"Certificates" means the Certificates of Participation in the Lease Agreement.

"City" means the City of Yankton, South Dakota.

"Declaration of Trust" means the trust agreement entered into by the Trustee and the City.

"Ground Lease" means the ground lease agreement between the City, as lessor, and the Trustee, as lessee, and any amendment thereof or supplement thereto.

"Improvements" mean the new aquatics center at Fantle Memorial Park, including equipment and furnishings thereof.

"Lease Agreement" means the lease purchase agreement between the Trustee, as lessor, and the City, as lessee, and any amendment thereof or supplement thereto.

"Property" means the real property upon which the Improvements will be made located at 2020 Douglas Avenue and legal described as the North West Quarter (NW¹) of the South East Quarter (SE¹) of the North West Quarter (NW²), Section Seven (S7), Township ninety-three North (T93N), Range fifty-five West (55W) of the 11th Principal Meridian, City of Yankton, Yankton County, South Dakota.

"Opt-Out" Taxes means the \$884,043 of annual taxes collected in 2019 through 2039.

"Rating Agency" means one or more of the following rating agencies: S&P Global Ratings, Moody's Investors Service Inc. and Fitch IBCA, Inc. Declaration of Necessity and Approval of Improvements. The governing body of the City in accordance with the Act does hereby declare a necessity to enter into the Ground Lease, Lease Agreement and Trust Indenture; and approves the construction of the Improvements.

"Underwriter" means Dougherty & Company, Inc., Pierre, South Dakota acting for and on behalf of itself and such securities dealers as it may designate.

Authorization and Approval of Transactions. Subject to the terms and conditions set forth herein, the City hereby (i) authorizes the lease of the Property to the Trustee for a period not to exceed 30 years pursuant to the Ground Lease, (ii) authorizes the lease of the Property from the Trustee pursuant to the Lease Agreement on an annual appropriation basis for an initial lease term and renewal terms not to exceed in the aggregate 20 years, (iii) approves the Trustee's execution of the Declaration of Trust, (iv) approves the Trustee's execution and delivery of the Certificates, payable as to principal in an aggregate original amount not exceeding \$14,000,000 pursuant to the Declaration of Trust and a Certificate Purchase Agreement between the City and the Underwriter (the Certificate Purchase Agreement) and the use of the proceeds thereof to finance the construction and equipping of the Improvements, and to pay the expenses incurred in connection with the execution and delivery of the Certificates.

Approval of Documents and Legal Description. The Authorized Officers of the City are hereby authorized and empowered for and on behalf of the City to approve and execute (i) the Declaration of Trust, (ii) the Ground Lease, (iii) the Lease Agreement, (iv) the Certificate Purchase Agreement, and (v) a Continuing Disclosure Certificate in substantially the respective forms to be filed with the Finance Officer and open to public inspection during regular business hours. The Authorized

Officers are authorized and directed to approve the entire legal description or a partial legal description of the Property to be included in the Ground Lease and Lease Agreement.

Certificates of Participation. The Certificates shall be executed and delivered in fully-registered form, shall be dated and numbered, shall be payable as to principal in \$5,000 denominations and integral multiples thereof and in such amounts (not exceeding in the aggregate \$14,000,000) and on such dates (not later than thirty (30) years), shall be payable as to interest at such rate or rates to be negotiated by the Authorized Officer and shall be subject to prepayment upon such terms and conditions, in such amounts and on such dates as may be specified in the Declaration of Trust and in the executed Certificate Purchase Agreement. The Authorized Officers are hereby authorized and empowered for and on behalf of the City to approve the Certificate Purchase Agreement, his or her execution and delivery thereof to evidence conclusively the City's approval thereof.

Annual Appropriation. The Lease Agreement is an annual appropriation lease subject to an annual appropriation by the City for each fiscal year.

Annual Payment. Upon each annual appropriation, the City covenants that if at any time the Opt-Out Taxes are insufficient to make the annual Lease Payment, that it shall inter-fund transfer or loan amounts sufficient to make the annual Lease payment under the Lease Agreement.

Segregation of Opt-out Taxes. The City does hereby segregate the Opt-Out Taxes from other funds of the City and shall use the Opt-Out Taxes solely for the annually appropriated lease payments due under the Lease Agreement.

Bond Counsel. The Authorized Officers are authorized to retain the Bond Counsel upon such terms as they approve.

Rating Agency. The Authorized Officers are authorized to retain the Rating Agency upon such terms as they approve.

Trustee. The Authorized Officers are authorized to retain the Trustee upon such terms as they approve.

Underwriter. The Authorized Officers are authorized to retain the Underwriter upon such terms as they approve.

Certificate Purchase Agreement. The Certificates shall be sold to the Underwriter at a price to be set forth in the Certificate Purchase Agreement. The Authorized Officers in consultation with the Placement Agent, are authorized to make such changes in the structuring of the terms and sale of the Certificates 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 Certificates less than that authorized herein, to sell any or all of the Certificates as term Certificates with annual mandatory redemption requirements which will produce substantially the same annual principal reductions as authorized herein, to change the dated date of the, and to adjust principal and interest payment dates and redemption dates of the Certificates. The form of the Certificate shall be conformed to reflect any changes, if any, as hereinbefore mentioned. The Mayor is hereby authorized to execute and the Finance Officer is authorized to attest the Certificate Purchase Agreement with the Underwriter providing for the purchase and sale of the Certificates. The Certificate Purchase Agreement shall be in form and content acceptable to the Mayor and the execution thereof by either of them to constitute conclusive evidence thereof; provided the Certificate Purchase Agreement effects the sale of the Certificates in accordance with the provisions of this Resolution, and is not inconsistent with the terms hereof. The Mayor and Finance Officer are authorized to cause the Certificates to be authenticated and delivered by the Trustee to the Underwriter and to execute, publish, and deliver all certificates and documents, including the Official Statement, and closing certificates and documents, as they shall deem necessary in connection with the sale and delivery of the Certificates.

Official Statement. The Authorized Officers and the Underwriter are hereby authorized and directed to provide for the preparation and distribution of a Preliminary Official Statement describing the Certificates (the Preliminary Official Statement). After the Certificates have been sold, the

Authorized Officers 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 and all other applicable rules of the Municipal Securities Rulemaking Board, the 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.

Tax Matters. The City covenants and agrees with the registered owners from time to time of the 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 Lease Agreement and 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.

The Authorized Officers charged with the responsibility for issuing the Certificates 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 Certificates, it is reasonably expected that the proceeds of the Certificates will be used in a manner that would not cause the Certificates to be arbitrage bonds within the meaning of Section 148 of the Code and the Regulations.

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.

Invalidity. If any one or more of the provisions of this 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 this 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.

Continuing Disclosure. 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 Certificates. The Mayor is authorized to execute at the Closing of the sale of the Certificates, an agreement for the benefit of and enforceable by the owners of the Certificates 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 Certificates 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.

Post Issuance Compliance. The City does hereby adopt Meier Henry Sargent Post-Issuance Compliance Policy and Tax-Advantaged Obligations and Continuing Disclosure with regard to the Certificates attached hereto. The City appoints the Finance Manager as the chief compliance officer.

Conflicting Resolutions Repealed. All resolutions or parts thereof in conflict herewith are, to the

extent of such conflict, hereby repealed.

**Post-issuance Compliance
Policy for Tax-Exempt and
Tax-Advantaged Obligations and Continuing Disclosure**

Definitions

"Compliance Officer" means the Finance Manager of the Issuer.

"Issuer" means the City of Yankton.

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 or tax-advantaged) subject to the continuing disclosure requirements of Rule 15c2-12(b)(5) (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 disseminating 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 policies 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 policies 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 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 have 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.

Roll Call: All members present voting Aye; voting Nay: None.
Motion adopted.

Action 19-190

Moved by Commissioner Schramm, seconded by Commissioner Moser, to approve the naming recommendation for the Walnut Street Fire Feature provided by the Naming Rights Committee. (Memorandum 19-152)

Roll Call: All members present voting Aye; voting Nay: None.
Motion adopted.

Action 19-191

Moved by Commissioner Webber, seconded by Commissioner Ferdig, to approve Resolution 19-32. (Memorandum 19-161)

RESOLUTION 19-32

Special Events Parking Request

WHEREAS, the City Commission adopted an Ordinance allowing for no parking designation for special events within the City of Yankton; and

WHEREAS, this Resolution would authorize the City of Yankton to tow vehicles that are parked in the defined area or areas and times specified for Special Events; and

WHEREAS, the Riverboat Days committee has made a request to enact this no parking zone for their event on August 16-18, 2019.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Yankton, South Dakota hereby approves the Special Event Parking Request on Levee Street from Douglas to Pearl, Mulberry Street from Levee to 2nd Street and Pearl Street from Levee to 2nd Street, as well as the designated parking lots from August 16, 2019 through August 18, 2019.

Roll Call: All Commissioners voting Aye were Ferdig, Miner, Moser, Schramm, Webber and Mayor Johnson; voting Nay: None. Abstain: Commissioner Hoffner.
Motion adopted.

Commissioner Webber introduced and Mayor Johnson read the title of Ordinance No. 1023, AN ORDINANCE AMENDING THE DEFINITION OF NOXIOUS, AND DANGEROUS AND UNHEALTHFUL VEGETATION, and set the date of the second reading and public hearing as August 12th, 2019.

Action 19-192

Moved by Commissioner Miner, seconded by Commissioner Schramm, to approve the Sidewalk Cafe Permit Application for 300 West 3rd Street doing business as Abes Coffee House.

(Memorandum 19-157)

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

Action 19-193

Moved by Commissioner Moser, seconded by Commissioner Ferdig, to approve Resolution 19-31.

(Memorandum 19-155)

RESOLUTION 19-31

WHEREAS, it appears from an examination of the plat of Lots 46 and 58, Crestview Homes Subdivision, in the NE 1/4 of Section 21, T93N, R56W of the 5th P.M., Yankton County, South Dakota prepared by John L. Brandt, a registered land surveyor in the state of South Dakota, and

WHEREAS, such plat has been prepared according to law and is consistent with the City's overall Comprehensive Development Plan.

NOW, THEREFORE BE IT RESOLVED by the Board of City Commissioners of the City of Yankton, South Dakota, that the plat for the above described property is hereby approved.

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

Action 19-194

Moved by Commissioner Ferdig, seconded by Commissioner Miner, to approve the request for a public firework display hosted by Yankton Air Show on August 30, 2019 through September 1, 2019.

(Memorandum 19-160)

Roll Call: All Commissioners voting Aye were Ferdig, Miner, Moser, Schramm, Webber and Mayor Johnson; voting Nay: None. Abstain: Commissioner Hoffner.

Motion adopted.

Action 19-195

Moved by Commissioner Miner, seconded by Commissioner Webber, to approve the City Manager to execute a Municipal Bicycle Trail Easement on private property in Lot 1, Block One, Golf View Estates

Subdivision. (Memorandum 19-159)

Roll Call: All Commissioners voting Aye were Ferdig, Hoffner, Miner, Schramm, Webber and Mayor Johnson; voting Nay: None. Abstain: Commissioner Moser.

Motion adopted.

Action 19-196

Moved by Commissioner Ferdig, seconded by Commissioner Moser, to approve the Memorandum of Understanding between the City of Yankton and the Yankton Youth Soccer Association (YYSA) and authorize the City Manager to execute transaction documents associated with accepting the described property. (Memorandum 19-156) Wes Chambers, President of YYSA, was present and expressed gratitude toward the 4Q30 Foundation and encouraged the City Commission to support this action. Carol Ebel, former YYSA Board Member, also thanked all involved and encouraged Commission support. A number of YYSA Board Members, Coaches, Parents and Youth Soccer Players were also in attendance.

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

Action 19-197

Moved by Commissioner Moser, seconded by Commissioner Hoffner, to approve Resolution 19-34.

(Memorandum 19-162)

RESOLUTION 19-34

Radio Proposal Contract

WHEREAS, the City of Yankton has identified the need to upgrade the 911 radio and consoles and construct a new P-25 radio site and associated improvements, and

WHEREAS, the City of Yankton proposes contract with RACOM Inc. to provide radio services to assist with said project, then

NOW, THEREFORE BE IT RESOLVED, that the Yankton City Commission duly authorizes the execution of the contract with RACOM for radio services, and

BE IT FURTHER RESOLVED, that the City Manager be authorized to execute the contract documents for the proposed radio services.

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

Action 19-198

Moved by Commissioner Miner, seconded by Commissioner Webber, to adjourn at 7:55 p.m.

Roll Call: All members present voting Aye; voting Nay: None.

Motion adopted.

Nathan V Johnson Mayor

ATTEST:

Al Viereck

Finance Officer

Published once at the total approximate cost of \$452.94

Bond Engagement Letter



Mark V. Meierhenry, *ret.*
Todd V. Meierhenry
Clint Sargent
Patrick J. Glover
Raleigh Hansman
Erin E. Willadsen

July 22, 2019

City of Yankton
PO Box 176
Yankton, SD 57078

Re: \$14,000,000 Lease Agreement Between
Branch Banking and Trust Company and the City of Yankton, South Dakota

Dear City Commission:

The purpose of this engagement letter is to set forth certain matters concerning the services we will perform as bond counsel to City of Yankton (the "Issuer") in connection with the issuance of the above-referenced Lease (the "Lease"). We understand that the proceeds of the Lease will be providing funds for the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park on land owned by the City of Yankton, South Dakota and pay cost of issuance of the Lease. The Lease are payable solely from the Lease Payments made from the general resources of the City that is annually appropriated by the Commission for the payment of the Lease.

SCOPE OF ENGAGEMENT

In this engagement, we expect to perform the following duties:

- (1) Subject to the completion of proceedings to our satisfaction, render our legal opinion (the "Bond Opinion") regarding the validity and binding effect of the Lease, the source of payment and security for the Lease.
- (2) Prepare and review documents necessary or appropriate to the authorization, issuance and delivery of the Lease, coordinate the authorization and execution of such documents, and review and, where appropriate, draft enabling legislation.
- (3) Assist the Issuer in seeking from other governmental authorities such approvals, permissions, and exemptions as we determine are necessary or appropriate in connection with the authorization, issuance and delivery of the Lease, except that we will not be responsible for any required Blue Sky filings.
- (4) Review legal issues relating to the structure of the Bond issue.

315 South Phillips Avenue, Sioux Falls, South Dakota 57104
(tel) 605•336•3075 (fax) 605•336•2593
www.meierhenrylaw.com

with attorneys licensed in South Dakota, North Dakota, Nebraska, Minnesota, and Iowa.

- (5) Assist the Issuer in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the issuance of the Lease.

Our Bond Opinion will be addressed to the Issuer and Purchaser and will be delivered by us on the date the Lease are exchanged for their purchase price (the "Closing").

The Bond Opinion will be based on facts and law existing as of its date. In rendering our Bond Opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume continuing compliance by the Issuer with applicable laws relating to the Lease. During the course of this engagement, we will rely on you to provide us with complete and timely information on all developments pertaining to any aspect of the Lease and their security. We understand that you will direct members of your staff and other employees of the Issuer to cooperate with us in this regard.

ATTORNEY-CLIENT RELATIONSHIP

Upon execution of this engagement letter, the Issuer will be our client and an attorney-client relationship will exist between us. We assume that all other parties will retain such counsel, as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that in this transaction we represent only the Issuer, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services as bond counsel are limited to those contracted for in this letter; the Issuer's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the Issuer will not affect, however, our responsibility to render an objective Bond Opinion.

Our representation of the Issuer and the attorney-client relationship created by this engagement letter will be concluded upon issuance of the Lease. Nevertheless, subsequent to Closing, we will mail the appropriate Internal Revenue Service Form 8038-G, prepare and distribute to the participants in the transaction a transcript of the proceedings pertaining to the Lease.

CONFLICTS

As you are aware, our firm represents many political subdivisions, companies and individuals. It is possible that during the time that we are representing the Issuer, one or more of our present or future clients will have transactions with the Issuer. It is also possible that we may be asked to represent, in an unrelated matter, one or more of the entities involved in the issuance of the Lease. We do not believe such representation, if it occurs, will adversely affect our ability to represent you as provided in this letter, either because such matters will be sufficiently different from the issuance of the Lease so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the issuance of the Lease. Execution of this letter will signify the Issuer's consent to our representation of others consistent with the circumstances described in this paragraph.

FEES

Based upon: (i) our current understanding of the terms, structure, size and schedule of the financing represented by the Lease; (ii) the duties we will undertake pursuant to this engagement letter; (iii) the time we anticipate devoting to the financing; and (iv) the responsibilities we will assume in connection therewith, we estimate that our fee will be \$15,000. Our fee may vary: (a) if the principal amount of Lease actually issued differs significantly from the amount stated above; (b) if material changes in the structure or schedule of the financing occur; or (c) if unusual or unforeseen circumstances arise which require a significant increase in our time or responsibility. If, at any time, we believe that circumstances require an adjustment of our original fee estimate, we will advise you.

If, for any reason, the financing represented by the Lease is not consummated or is completed without the delivery of our Bond Opinion as bond counsel, or our services are otherwise terminated, we will expect to be compensated at our normal hourly rates (currently ranging from \$250 to \$450 depending on personnel) for time actually spent on your behalf, plus client charges, as described above.

SERVICES PROVIDED AT NO CHARGE

We do not charge for the Post Issuance Compliance Manual or the preparation of the 8038-G. These documents are provided for your convenience. If the Issuer wishes to purchase the manual or services with regard to the preparation of the 8038-G the following costs will be charged:

Post Issuance Compliance Manual	\$ 60
8038-G Preparation	\$ 500

A written amendment to this agreement must be provided for the above additional charges and services.

RECORDS

At your request, papers and property furnished by you will be returned promptly upon receipt of payment for outstanding fees and client charges. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed by an authorized officer, retaining the original for your files. We look forward to working with you.

MEIERHENRY SARGENT LLP

By:



Accepted and Approved:

CITY OF YANKTON, SOUTH DAKOTA

By:

Its: Finance Officer



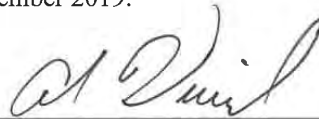
Certificate of Officers

CERTIFICATE

The undersigned Al Viereck, being duly appointed, qualified, and acting Finance Officer of the City of Yankton and having in that capacity personal knowledge of the matters referred to herein, certifies that the following persons were elected or appointed to the offices set forth opposite their respective names below, and as such officers at the date hereof, and that no successor to any of said officers has been selected at any subsequent time, and each of said persons is duly qualified and acting in the office to which he/she was originally elected.

<u>Mayor</u>	<u>Nathan Johnson</u>
<u>Finance Officer</u>	<u>Al Viereck</u>
<u>City Attorney</u>	<u>Ross Den Herder</u>
<u>City Manager</u>	<u>Amy Leon</u>
<u>Commissioner</u>	<u>Jake Hoffner</u>
<u>Commissioner</u>	<u>David Carda</u>
<u>Commissioner</u>	<u>Bridget Benson</u>
<u>Commissioner</u>	<u>Jerry Webber</u>
<u>Commissioner</u>	<u>Amy Miner</u>
<u>Commissioner</u>	<u>Mason Schramm</u>
<u>Commissioner</u>	<u>Stepahnie Moser</u>
<u>Commissioner</u>	<u>Chris Ferdig</u>

WITNESS my hand this 26th day of September 2019.



Al Viereck

Lease Agreement

Return:

Prepared by:
Todd Meierhenry
Meierhenry Sargent LLP
315 S. Phillips Avenue
Sioux Falls, SD 57104
(605) 336-3075



STATE OF SOUTH DAKOTA
County of Yankton
Filed for record at 9:15 A M
in Book 547 Page 238

SEP 26 2019

Brian J. Hunhoff
Register of Deeds

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\$ 30.00 pd
174103

LEASE AGREEMENT

between

BRANCH BANKING AND TRUST COMPANY

as Lessor

and

CITY OF YANKTON, SOUTH DAKOTA

as Lessee

Dated as of September 26, 2019

THIS LEASE AGREEMENT dated as of September 26, 2019 (the “Lease”), by and between Branch Banking and Trust Company, a North Carolina Banking Corporation (the “Lessor”), as lessor, and City of Yankton, South Dakota, a political subdivision of the State of South Dakota (the “City”), as lessee;

WITNESSETH:

WHEREAS, the City is authorized by SDCL §9-12-1 to acquire such items of real and personal property as are needed to carry out its governmental and proprietary functions, and to acquire such real and personal property by entering into lease contracts; and

WHEREAS, the City has determined that it is necessary for it to acquire pursuant to this Lease certain interests in real property described on Exhibit A hereto (the “Land”), together with the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park (the “Project”); and

WHEREAS, the Lessor is willing to acquire a leasehold interest in the Land and title to the Project (together, the “Facilities”) and to lease and with the option to sell the same to the City, pursuant to this Lease.

NOW THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. For the purposes of this Lease and Exhibits attached hereto, the terms defined in the Lease and capitalized herein shall have the meaning ascribed to them in the Lease, unless the context requires some other meaning. In addition, the terms defined in this Section shall, for all purposes of this Lease and Exhibits attached hereto, have the meanings herein specified.

“Act of Bankruptcy” means any of the following events:

- (i) The City shall (a) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the City or of all or a substantial part of either of their property, (b) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, or
- (ii) A proceeding or case shall be commenced, without the application or consent of the City, as the case may be, in any court of competent jurisdiction, seeking (a) the liquidation, reorganization, dissolution, winding-up, or the composition or adjustment of debts of the City (b) the appointment of a trustee, receiver, custodian, liquidator or the like of the or of all or any substantial part of the assets of the City, or (c) similar relief in respect of the City under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case has not been dismissed within sixty (60) days of the filing thereof.

“Authorized Officer” means when used with respect to the City, the Mayor, the Finance Officer or any other person who is designated in writing by the Mayor or Finance Officer as an Authorized Officer for purposes of this Lease.

“Authorized Officer” means when used with respect to the Lessor, any Assistant Vice President, Vice President, or Authorized Officer of the Lessor.

“Bond Counsel” means an attorney or law firm having a national reputation as bond counsel in connection with the issuance of state and local government obligations.

“Business Day” means any day upon which banks located in the State are not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

“City” means City of Yankton, South Dakota.

“Closing Date” means the date upon which the Lease is delivered to the Lessor.

“Code” means the Internal Revenue Code of 1986, as amended. All references herein to sections of the Code are to sections thereof as they exist on the date of execution of this instrument but include any amendment of the provisions thereof.

“Completion Date” means the date of completion of construction of the Project, established in accordance with Section 3.2(e) hereof.

“Construction Account” means the irrevocable account established pursuant to Section 3.2 into which all proceeds of this lease will be deposited and held in trust by the City for the sole purpose of funding construction of the Facility and making payments under this Lease, if necessary.

“Construction Costs” means all costs of payment of, or reimbursement for, acquisition, construction, installation, equipping and financing of the Project, including but not limited to, administrative costs, engineering costs, costs of feasibility, environmental and other reports, inspections costs, permits fees filing and recording costs, costs of obtaining title insurance or title opinion, printing costs, reproduction and binding costs, legal fees and charges, professional consultation fees, and charges and fees in connection with the foregoing.

“Costs of Issuance” means costs incurred and allocated to the Lease within the meaning of 26 USCA 147(g).

“Event of Non-Appropriation” means the same as defined in Section 3.5 hereof.

“Facilities” means the Project.

“Fiscal Year” the twelve-month fiscal period of the City, which commences on January 1 in every year and ends on December 31.

“Ground Lease” means the Ground Lease Agreement, dated as of September 26, 2019 by which the City leases the Land to the Lessor, as the same may be amended or supplemented from time to time.

“Independent Counsel” means an attorney duly admitted to the practice of law before the highest court of the State of South Dakota who is not a full-time employee of the Lessor or the City.

“Initial Lease Term” means from September 26, 2019 to December 31, 2019.

“Interest” means the portion of any Lease Payment designated as and comprising interest as described in the attached Exhibit B.

“Interest Payment Date” means any of the dates for scheduled payments of Interest, as shown on Exhibit B.

“Issue Price” means \$14,000,000.

“Land” means the real property described on Exhibit A hereto including any property added to or substituted for any portion of the Land and less any real property released from the Lease and the lien for the Lease, all pursuant to Article V of the Lease.

“Lease” means this Lease Agreement dated as of September 26, 2019, between the Lessor and the City, as the same may be amended or supplemented from time to time.

“Lease Payment” means the payment due from the City to the Lessor on each Payment Date during the Term of this Lease, as shown on Exhibit B plus any payment of the Lessor’s fees and to replenish the Reserve Account.

“Lease Term” means the Initial Lease Term and all Renewal Lease Terms.

“Lessor” means Branch Banking and Trust Company, Charlotte, North Carolina and its successors and assigns, in its capacity as Lessor under the Lease.

“Net Proceeds” means any insurance or risk coverage proceeds paid with respect to the Facilities, remaining after payment therefrom of all expenses incurred in the collection thereof.

“Opt-Out” means the same as defined in Section 2.1(g) hereof.

“Project” means the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park on land owned by the City of Yankton, South Dakota.

“Payment Date” means each June 15 and December 15, commencing June 15, 2020, upon which any Lease Payment is due and payable as provided in Exhibit B.

“Permitted Encumbrances” means as of any particular time: (i) liens for taxes and assessments not then delinquent, or which the City may, pursuant to provisions of Section 5.3 hereof, permit to remain unpaid, (ii) the Ground Lease, this Lease and amendments hereto or thereto, (iii) the Lessor’s interest in the Facilities, (iv) any mechanic’s, laborer’s, materialmen’s, supplier’s or vendor’s lien or right not filed or perfected in the manner prescribed by law, other than any lien which the City may, pursuant to Section 5.2 hereof, permit to remain unpaid; and (v) encumbrances disclosed on Exhibit A hereto.

“Preliminary Expenditures” means Costs of Issuance or Construction Costs which (i) were incurred prior to July 27, 2019, (ii) do not, in the aggregate, exceed 20% of the Issue Price of the Lease and (iii) if Construction Costs, are of the following types: architectural, engineering, soil testing, surveying and similar costs incident to commencement of construction.

“Principal” means the portion of any Lease Payment designated as principal in the attached Exhibit B.

“Principal Balance” means the sum of all unpaid principal components on Schedule B.

“Principal Component” means that portion of the Lease Payments designated as principal on Exhibit B.

“Principal Office” means with regard to the Lessor, Branch Banking and Trust Company, Attn: Governmental Finance, 5130 Parkway Plaza Blvd Charlotte NC 28217.

“Principal Payment Date” means each June 15 and December 15, commencing June 15, 2020, for scheduled payments of Principal, as shown on Exhibit B.

“Project” means the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park

“Purchase Price” means the sum of the Principal Balance plus unpaid interest to the date of termination/pay-off, interest to be calculated on the basis of twelve 30-day months.

“Tax Compliance Certificate” means the Tax Compliance Certificate described in Section 5.6 hereof, to be executed and delivered by the City on the Closing Date.

“Renewal Lease Term” means each Fiscal Year in which an annual appropriation has been provided for the payment of the Lease Payments for the then Fiscal Year.

“Resolution” means the resolution of the governing body of the City adopted July 22, 2019 relating to this Lease and the Project.

“State” means the State of South Dakota.

“State and Federal Laws” means the Constitution and any law of the State and any rule or regulation of any agency or political subdivision of the State; and any law of the United States, and any rule or regulation of any federal agency.

“Term of this Lease” means the Initial Lease Term and every term starting January 1 and ending December 31 of each year to December 31, 2039 unless terminated upon the occurrence of the first of the following events:

- (a) This Lease shall initially terminate at the end of the Initial Lease Term or at the end of any subsequent Renewal Lease Term if an Event of Non-Appropriation occurs; or
- (b) The prepayment by the City of all Lease Payments required to be paid by it hereunder, pursuant to Section 8.1; or
- (c) The discharge by the City of its obligation to pay the Lease Payments required to be paid by it hereunder pursuant to Section 8.3.

“Wire Transfer Agreement” means the Wire Transfer Agreement, dated September 15, 2019, between the City and the Lessor, as the same may be amended or supplemented from time to time.

“Wired Proceeds” means \$13,887,000 wired to the City by the Lessor.

Section 1.2. Exhibits

The following Exhibits are attached to and by reference made a part of this Lease:

Exhibit A: A legal description of the Land and a description of Facilities being leased by the City pursuant to this Lease, and a listing of Permitted Encumbrances.

Exhibit B: Shows the date and Interest and Principal amount and Purchase Price of each Lease Payment coming due during the Lease Term on each Interest Payment Date and each Principal Payment Date, and the provisions for prepayment of the Lease Payments.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations Covenants and Warranties of the City. The City represents, covenants and warrants as follows:

- (a) The City is authorized under the Constitution and laws of the State to enter into this Lease, the Ground Lease, the Wire Transfer Agreement, and the transactions contemplated hereby, and to perform all of its obligations hereunder.
- (b) This Lease, the Ground Lease, and the Wire Transfer Agreement are entered into under authority of and pursuant to South Dakota Codified Laws Chapter 9-12, as amended.

(c) The officers of the City executing this Lease, the Ground Lease, and the Wire Transfer Agreement have been duly authorized to do so.

(d) The Facilities will be used during the Term of the Lease to carry out the governmental or proprietary purposes of the City and its departments, agencies, institutions, instrumentalities and political subdivisions.

(e) The Finance Officer will present to the Governing Body of the City for inclusion in the annual appropriation ordinance an appropriation sufficient to pay all Lease Payments and other obligations of the City under this Lease, and will take all other actions necessary to provide moneys for the payment of the obligations of the City under this Lease from sources of the City lawfully available for this purpose. However, nothing contained in this Lease shall be construed to constitute a Lease for a term of years or extend beyond any single Fiscal Year.

(f) The City covenants, subject to its option of nonappropriation, to continue to impose and collect ad valorem tax so long as the Lease is outstanding.

(g) The City, subject to a Event of Non-Appropriation, has authorized an ad valorem property tax levy in amounts sufficient to pay principal and interest on the Lease. Sixty-six percent of the City voters have voted to opt out of the tax limitation measure currently in statute up to \$884,043.00 annually starting with calendar year 2019 taxes payable in the calendar year 2020 (the "Opt-Out"). This Opt Out will be for no more than twenty (20) years, which will be through taxes payable in the calendar year 2039 the taxes to pay for all or a portion of the annual Lease Payments due under this Lease.

(h) The City shall comply with all provisions of the Code which are necessary to preserve the tax exempt status of the interest component of the payments made and to be made under this Lease, including, without limitation, the investment and rebate provisions of Section 148 of the Code, the prohibition against federal guaranties under Section 149(b) of the Code and the information reporting requirements of Section 149 (e) of the Code.

(i) The City agrees that it will not take any action which would have the effect of subjecting the Interest to be paid hereunder to federal income taxes nor will the City fail to take any action which failure could result in subjecting the Interest to be paid hereunder to federal income taxes.

(j) The City reasonably believes that funds can be obtained (including those derived from the Opt-Out) sufficient to make all Lease Payments during the term of the Lease and hereby covenants that it will do all things lawfully within its power to obtain (including assessing the Opt-Out through calendar year 2039), maintain and properly request and pursue funds from which the lease payments may be made. The Finance Officer of the City shall request the required appropriation from the City Common Council and exhaust all available administrative reviews and appeals in the event such portion of the budget is not approved.

(k) Subject to an Event of Non-Appropriation, all revenues of the City derived from the Opt-Out shall be utilized to pay the Lease Payments due under this Lease.

Section 2.2. Representations, Covenants and Warranties of the Lessor. The Lessor represents, covenants and warrants as follows:

(a) The Lessor is North Carolina Banking Corporation; is duly qualified, in good standing and authorized to transact business in the State; has power to enter into this Lease; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of this Lease.

(b) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with the terms and conditions hereof and the Wire Transfer Agreement, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Lessor is now a party or by which the Lessor is bound, constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor, or upon the Land and the Facilities except Permitted Encumbrances.

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ARTICLE III

**CONSTRUCTION COSTS; ACQUISITION AND CONSTRUCTION OF PROJECT;
PAYMENT OF COST; SALE OF PROJECT**

Section 3.1. Construction Costs. The City has caused estimates of the Construction Costs to be \$18,000,000. Based on such estimates, the total Construction Costs to be paid from Wired Proceeds are estimated to be not less than \$13,887,000 and the total Costs of Issuance of \$113,000. In order to provide the moneys needed to pay the Construction Costs when due, and in consideration of the actions agreed to be performed by the City under this Lease, the Lessor will pay to the Lessor the sum of \$14,000,000, less costs of issuance of \$113,000 and the Lessor agrees that it will apply that money as provided in Section 3.2 of this Lease.

On, September 26, 2019, the Lessor and deposit the following:

<u>Account</u>	<u>Amount</u>
Total Proceeds Wired	\$14,000,000
Balance of Proceeds-Deposit to Construction Account	\$13,887,000
Less Costs of Issuance Paid from the Construction Account	\$113,000

Section 3.2. Acquisition and Construction of Project; Payment of Cost.

(a) The City shall establish an irrevocable construction account (the "Construction Account") and the wired proceeds of the Lessor on September 26, 2019, shall be deposited by the City into the Construction Account and held in trust solely for the benefit of the Lessor for the construction of the Project, and shall be used to pay the Construction Costs of the Project and Cost of Issuance. The City shall not transfer any funds out of the Construction Account except to pay (i) Construction Costs of the Project, (ii) Costs of Issuance, and (iii) prepay this Lease as provided herein.

(b) The City as agent of the Lessor shall cause the Project to be completed with all reasonable dispatch, but no later than 3 years from the dated date of this Lease. The Lessor hereby appoints the City as its agent for the purpose of construction of the Project and the City may perform the same itself or through its agents, and may make or issue such contracts, orders, receipts and instructions, and in general do or cease to be done all such other things as it may in its sole discretion consider requisite or advisable for the completion of the Project and for fulfilling its obligations under this Article. The City shall have full authority and the sole right under this Lease to supervise and control, directly or indirectly, all aspects of the construction and equipping of the Project, and covenants to the Lessor that it will exercise such authority in a manner which will cause the Project to be completed with all reasonable dispatch. The City covenants that it will follow all public bidding laws as may be required of the City and that it will reasonably expect to bid and enter into a binding obligation to spend more than 5% of the proceeds of the Lease within 6 months of the date of the Lease.

The City agrees the Costs of Construction of the Project shall be paid from the sources available in the following order:

- (1) out of funds of the City budgeted and allocated to the Project; and
- (2) from the Construction Account (\$13,887,000); and

The City further agrees that it will indemnify, defend and hold harmless the Lessor, its directors, officers, employees and agents and any assignee of the Lessor, without payment being made by the Lessor, from and against any and all claims, demands, suits, liabilities and costs (including without limitation, attorneys' fees and costs and expenses of investigation and proof) arising out of the completion or equipping of the Project, or any contract or matter related thereto.

The moneys on deposit in the Construction Account shall be applied by the City solely as provided in this Section. Until the moneys on deposit in the Construction Account are so applied, such moneys shall be held in trust for the benefit of the Lessor and the City shall have no right, title or interest therein except as expressly provided in this Lease.

(c) Disbursements from the Construction Account are to be made by the City in accordance with the construction contract for the Project and the laws of the State of South Dakota.

(d) If the moneys in the Construction Account, together with any other moneys made available to pay the Construction Costs, shall not be sufficient to pay the Construction Costs in full, then the City shall pay all that portion of the Construction Costs in excess of the moneys available therefor.

If the City shall make any payments pursuant to this paragraph (d), it shall not be entitled to any reimbursement therefor from the Lessor, nor shall it be entitled to any diminution in or postponement of the payment of the Lease Payments or the payment of any other amounts payable under this Lease.

(e) The Completion Date shall be the date on which the Project financed with the proceeds of the Lease is completed in its entirety and ready to be placed in service, all as determined by the City. Promptly after the Completion Date, the City shall submit to the Lessor a certificate signed by an officer of the City, which shall specify the Completion Date and shall state that construction of the Project has been completed and the Construction Costs have been paid, except for any portion thereof which has been incurred but is not then due and payable, or the liability for the payment of which is being contested or disputed by the City and for the payment of which the Lessor is directed to retain specified amounts of moneys within the Construction Account. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date thereof or which may subsequently come into being. Any funds remaining in the Construction Account after all costs of construction and equipping of the Project have been paid shall be used solely to pay the Lease Payments.

(f) The City shall be entitled to withdraw money from the Construction Account in payment of any item constituting a Costs of Issuance. The City agrees that it will pay

promptly all expenses constituting a Costs of Issuance, whether or not reimbursed therefor from the Construction Account.

(g) The City shall indemnify and hold harmless the Lessor against any loss, cost or damage (including without limitation attorneys' fees and costs of investigation and proof) suffered by the Lessor as a result of any disbursement made by the City.

Section 3.3. Lease and Option to Purchase Land and Facilities. The Lessor hereby leases with the option to purchase its leasehold interest in the Land and the Facilities to the City, and the City hereby leases for the Initial Lease Term and each Renewal Lease Term as may be appropriated, the Land and Facilities from the Lessor, upon the terms and conditions set forth in this Lease.

The Land and Facilities are leased with the option to purchase in their present condition without representation or warranty of any kind by the Lessor, and subject to the rights of parties in possession, to the existing state of title, to all applicable legal requirements now or hereinafter in effect, and to Permitted Encumbrances. The City has examined the Land and title thereto and has found all of the same to be satisfactory for the purposes of this Lease.

Section 3.4. Lease Payment Account and Lease Payments. The City shall establish an account for the payment of the lease payments (the "Lease Payment Account"). The City shall deposit into the Lease Payment Account (1) all payments hereafter made by the City for deposit in such account pursuant to the Lease Agreement (including any insurance or condemnation moneys required to be deposited therein), (2) all taxes collected pursuant to the Opt-Out and such other moneys sufficient to make the lease payments, and (3) all other amounts required or permitted hereunder to be deposited in the Lease Payment Account. Lease Payment Account". Subject to the provisions below with respect to a failure of the City to appropriate annually under Section 4.2(a), the City shall pay to the Lessor, Lease Payments at the times and in the manner specified in the attached Exhibit B. Each annual aggregate payment of Lease Payments due hereunder shall be for the right to possess the Land and Facilities for the Fiscal Year in which moneys have been appropriated by the City Common Council of the City to pay the Lease Payments coming due in such Fiscal Year, it being hereby acknowledged that said moneys constitute special funds held by the Lessor pursuant to this Lease to be applied for such purposes. The City shall pay the Lease Payments due hereunder to the Lessor via wire transfer or ACH debit. If the City fails to appropriate Lease Payments for the upcoming Fiscal Year, the City will not be obligated to pay Lease Payments beyond the then current Fiscal Year but will not be relieved of any obligations arising or accruing prior thereto. The Finance Officer of the City shall request the required appropriation in each budget for a Fiscal Year from the City Common Council and exhaust all available administrative reviews and appeals in the event such portion of the budget is not approved.

Section 3.5. Budgeting and Appropriation. The City covenants to estimate the costs associated with the Lease and determine the means of financing Lease Payments for any ensuing Fiscal Year and shall include the Lease Payment it in its annual appropriation budget. The City shall have the right to terminate this Lease, in whole but not in part, at the end of any Fiscal Year of the City, in the manner and subject to the terms specified in this Section, in the sole event that the City Council fails to appropriate money sufficient for the continued performance of this Lease by the City after the end of such Fiscal Year (an "Event of Non

Appropriation”), as evidenced by the passage of a resolution specifically prohibiting the Lessee from performing its obligations under this Lease and from using any moneys to pay the Lease Payment due under this Lease in the next succeeding Fiscal Year and all subsequent Fiscal Years. The City may effect such Event of Non-Appropriation by giving the Lessor a written notice of termination as provided in this Section and by paying to the Lessor any Lease Payment and other amounts which are due and have not been paid at or before the end of its then current Fiscal Year. The City shall give notice to the Lessor of an Event of Non-Appropriation pursuant to this Section no later than July 31 of a calendar year for the upcoming Fiscal Year commencing on the next January 1 and shall notify in writing the Lessor of any anticipated termination at the end of such Fiscal Year. If an Event of Non-Appropriation occurs as provided in this Section, the Lessee shall deliver possession of the Leased Property to the Lessor and shall convey to the Lessor or release its interest in the Land and Facilities under the Lease at the end of such Fiscal Year in which the Event of Non-Appropriation occurs. Upon termination of this Lease as provided in this Section, the City shall not be responsible for the payment of any Lease Payment coming due with respect to succeeding Fiscal Years, but if the City has not delivered possession of the Land and Facilities to the Lessor and conveyed to the Lessor or released its interest in the Land and Facilities at the end of such Fiscal Year in which an Event of Non-Appropriation occurs, the termination shall nevertheless be effective, but the Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Lease Payments thereafter coming due under Section 4.01 hereof which is attributable to the number of days after such period during which the City fails to take such actions and for any other loss suffered by the Lessor as a result of the City’s failure to take such actions as required.

Section 3.6. Quiet Enjoyment. The Lessor hereby covenants to provide the City during the Lease Term with quiet use and enjoyment of the Land and Facilities, and the City during such term may peaceably and quietly have and hold and enjoy the same, without suit, trouble or hindrance from the Lessor, except as expressly set forth in this Lease. The Lessor will, at the request of the City and at the City’s cost, join in any legal action in which the City asserts its rights to such possession and enjoyment to the extent the Lessor may lawfully do so.

Section 3.7. Possession. The Lessor does hereby deliver possession of the Land to the City and the City does hereby accept possession of the Land subject to the terms and conditions of the Lease and the Ground Lease.

Section 3.8. Lessor Access to Land and Facilities. The Lessor shall have the right at all reasonable times to examine and inspect the Land and Facilities, and shall have such rights of access to the Land and Facilities as may be reasonably necessary to cause the proper maintenance thereof in the event of failure by the City to perform its obligations hereunder.

Section 3.9. Compliance with Lease. During the Term of this Lease, the City agrees to perform all obligations imposed upon it by the Lease.

Section 3.10. City’s Title to Land. The City represents and warrants that it has good and marketable fee simple title to the Land, subject only to Permitted Encumbrances and the Ground Lease, and covenants that it will not, during the Lease Term, encumber the Land, or permit the Land to be encumbered, in such a manner as would jeopardize the Lessor’s leasehold

interest therein. The City recognizes that total or partial failure of title to, or the creation or existence of any encumbrance upon, the Land or the Facilities shall not, under any circumstances, excuse the City from the payment of the Lease Payments, or result in any right to abatement or set-off with respect thereto.

ARTICLE IV

LEASE TERM; TERMINATION OF LEASE TERM; TRANSFER OR SURRENDER OF LAND AND FACILITIES

Section 4.1. Lease Term. This Lease shall be in effect for the Lease Term, unless terminated prior to said date as provided in Section 4.2.

Section 4.2. Termination of Lease Term. The Term of this Lease will terminate upon the occurrence of the first of the following events:

- (a) This Lease shall initially terminate at the end of the Initial Lease Term or at the end of any subsequent Renewal Lease Term if an Event of Non-Appropriation occurs; or
- (b) The prepayment by the City of all Lease Payments required to be paid by it hereunder, pursuant to Section 8.1; or
- (c) The discharge by the City of its obligation to pay the Lease Payments required to be paid by it hereunder pursuant to Section 8.3.

Section 4.3. Lessor's Interest in the Land and Facilities. Upon payment of all Lease Payments due as listed on Exhibit B, or upon prepayment of the Lease Payments or discharge of the City's obligation to make the Lease Payments in accordance with Article VIII hereof, full and unencumbered legal title to the Facilities shall pass to the City, and the Lessor shall have no further interest therein. In such event the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the City any and all documents necessary to vest in the City, all of the Lessor's right, title and interest in and to the Land and Facilities, free and clear of all liens, leasehold interests, encumbrances (other than Permitted Encumbrances), including, if necessary, a release of any and all interests or liens created under the provisions of this Lease.

Section 4.4. No Subordination of City's Title to Lessor. No provision of this Lease shall be construed as in any way subordinating, conveying or agreeing to convey, or otherwise adversely affecting the City's fee simple interest in the Land. This Lease covers only the Lessor's leasehold interest in the Land created by the Ground Lease, and all references to the Land herein shall be construed as applying only to such leasehold interest, unless otherwise specifically stated.

Section 4.5. Purchase of Title. At any time when (a) the entire Principal Balance, together with any unpaid or delinquent interest, has been fully paid, whether by (i) payment of all Lease Payments as provided in Section 3.4 hereof, (ii) prepayment of all of the Lease Payments as provided in Section 8.1 hereof, or (iii) discharge of all of the Lease Payments, as provided in Section 8.3 hereof then the purchase of the Land and the Facilities by the City shall be deemed to have been completed. The Lessor shall thereupon deliver to the City such instruments of

conveyance or release as, in the opinion of counsel, may be necessary to release any interests of the Lessor and the Lessor in the Land and Facilities.

ARTICLE V

GENERAL MATTERS

Section 5.1. Use; Permits. The City shall exercise due care in the use, operation and maintenance of the Land and Facilities, and shall not use, operate or maintain the Land and Facilities improperly, carelessly, in violation of any State and Federal Law or for a purpose or in a manner contrary to that contemplated by this Lease. The City shall obtain or cause to be obtained all permits and licenses necessary for the operation, possession and use of the Land and Facilities. The City shall comply with all State and Federal Laws applicable to the operation, possession and use of the Land and Facilities, and if compliance with any such State and Federal Law requires changes or additions to be made to the Land and Facilities, such changes or additions shall be made by the City at its expense.

Section 5.2. Maintenance and Modification of Facilities by the City. During the Term of this Lease the City shall, at its own expense, maintain, preserve and keep the Land and Facilities in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep the Land and Facilities in such condition. The Lessor shall have no responsibility for any of these repairs, replacements or improvements. In addition, the City shall, at its own expense, have the right to remodel the Facilities or to make additions, modifications and improvements thereto. All such additions, modifications and improvements shall thereafter comprise part of the Facilities and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the Facilities; and the Facilities, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value not less than the value of the Facilities immediately prior to the making of such additions, modifications and improvements. Any property for which a substitution or replacement is made pursuant to this Section may be disposed of by the City in such manner and on such terms as are determined by the City. The City will not permit any mechanic's or other lien to be established or remain against the Land and Facilities for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City pursuant to this Section; provided that if any such lien is established the City shall first notify the Lessor of the City's intention to do so, the City may in good faith contest any lien filed or established against the Land and Facilities, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Lessor shall notify the City that, in the opinion of counsel, by non-payment of any such item the interest of the Lessor in the Land and Facilities will be materially endangered or the Land and Facilities or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor with full security against any such loss or forfeiture, in form satisfactory to the Lessor. The Lessor will cooperate fully with the City in any such contest, upon the request and at the expense of the City.

Section 5.3. Taxes, Other Governmental Charges and Utility Charges. During the Term of this Lease the City shall also pay or cause to be paid when due all gas, water, steam, electricity, heat, power and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Land and Facilities. The City shall also pay all property and excise taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Land and Facilities or any part thereof or the Lease Payments, and which become due during the Term of this Lease with respect thereto; and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Land and Facilities; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due. The City shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property.

The City may, at the City's expense and in the City's name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Lessor shall notify the City that, in the opinion of counsel, by nonpayment of any such items the interest of the Lessor in the Land and Facilities will be materially endangered or the Land and Facilities or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss which may result from nonpayment, in form satisfactory to the Lessor.

Section 5.4. Liens. The City shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Land and Facilities, except the respective rights of the Lessor and the City as herein provided and Permitted Encumbrances. Except as expressly provided in this Article, the City shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The City shall reimburse the Lessor for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.5. Easements. The Lessor will from time to time, at the request of the City and at the City's cost and expense, cooperate and join with the City: (a) in granting easements and other rights in the nature of easements, releasing existing easements or other rights in nature of easements which are for the benefit of the Land and Facilities; (b) in executing amendments to any covenants and restrictions affecting the Land and Facilities; (c) executing and delivering to any person any instrument appropriate (i) to confirm or to the effect that such grant, release or execution is not detrimental to the proper conduct of the operations of the City on or in the Land and Facilities, (ii) to show the consideration, if any, being paid for such grant, release or amendment, (iii) to show that such grant, release, dedication, transfer, petition or amendment does not materially impair the use of the Land and Facilities or reduce their value, or (iv) to confirm that the City will remain obligated hereunder to the same extent as if such grant,

release, or amendment had not been made, and the City will perform all obligations of the Lessor under such instrument. The consideration, if any, received for such grant, release, or amendment shall be paid to the Lessor and applied against the next succeeding Lease Payment.

Section 5.6. Arbitrage Rebate. The City acknowledges that the rebate provisions of Section 148(f) of the Code are applicable to the Lease Payments and the City will comply with all provisions of the Tax Compliance Certificate, dated as of the date of delivery of the Lease, and executed by the City. The City shall pay all costs and expenses incurred in complying with all provisions of the Tax Compliance Certificate, including the amount of rebatable arbitrage (or penalty in lieu thereof) required at any time to be paid by the City to the United States. The City will indemnify and hold the Lessor harmless from any liability or alleged liability resulting from such computations or failure to compute any rebate or penalty amount.

Section 5.7. Register. The Lease shall be filed with the Yankton County Register of Deeds and shall be transferred or assigned by the registered parties thereto as evidenced in the Yankton County Register of Deeds.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 6.1. Damage, Destruction and Condemnation. If the Facilities or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or title to or the temporary use of the Facilities or any part thereof, or the interest of the City or the Lessor in the Land or Facilities or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the City shall have the rights with respect to the Net Proceeds of any insurance or condemnation award specified in this Section, but the City shall be obligated to continue to pay the Lease Payments due with respect to the Facilities. All Net Proceeds shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Land and the Facilities by the City or if the City elects not to repair or rebuild, all Net Proceeds shall be applied to prepay Lease Payments; in either event all Net Proceeds not needed for the purpose shall belong to the City.

Section 6.2. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Land and the Facilities, the City shall either: (a) complete the work and pay any cost in excess of the amount of the Net Proceeds, and the City agrees that if by reason of any such insufficiency of the Net Proceeds, the City shall make any payments pursuant to the provisions of this Section 6.2, the City shall not be entitled to any reimbursement therefor from the Lessor nor shall the City be entitled to any diminution of the Lease Payments due with respect to the Facilities; or (b) prepay the Lease Payments, in which event the Net Proceeds shall be used for this purpose. If the City elects not to repair, rebuild or restore, the City shall prepay or discharge the Lease Payments to the full extent of the Net Proceeds.

Section 6.3. Cooperation of Lessor. The Lessor shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 6.1 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Land or the Facilities or

any part thereof and will, to the extent it may lawfully do so, permit the City to litigate in any proceeding resulting there from in the name of and on behalf of the Lessor. In no event will the Lessor voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Land or the Facilities or any part thereof without the written consent of the City.

Section 6.4. Condemnation of Other Property Owned by the City. The City shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for destruction of, damage to or taking of its property not included in the Land or the Facilities.

ARTICLE VII

INSURANCE AND INDEMNIFICATION

Section 7.1. Liability Insurance During the Term of this Lease. The City shall procure and maintain continuously in effect with respect to the Land and Facilities, insurance (which shall name the Lessor as an additional insured) against liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Land and Facilities or any part thereof, in the amount of \$1,000,000 for death of or personal injury to any one person, in the amount of \$1,000,000 for all personal injuries and deaths arising out of any one occurrence, and in the amount of \$100,000 for property damage arising out of any one occurrence. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds may be paid. If any insurance required by this Section is unavailable or the cost of obtaining such insurance is, in the judgment of the City Commission, excessive, the City may self-insure for such risks, provided that the City gives prompt written notice of its intent to do so to the Lessor, and provided that the City shall continue to seek such insurance coverage and, if such insurance becomes available at a reasonable cost, the City shall promptly obtain such insurance. Notwithstanding the foregoing, if the City elects to self-insure, other than through a self-insurance pool, the City shall at all times maintain a policy of general public liability insurance with respect to the Land and Facilities naming the Lessor as insured, in an amount not less than \$1,000,000.

Section 7.2. Property Insurance During the Term of this Lease. The City shall procure and maintain continuously in effect during the Term of this Lease with respect to the Facilities, to the extent of the full insurable value of the Facilities, other than building foundations, insurance or a risk coverage pool provided by the South Dakota Public Assurance Alliance under which the City covenants to add the Facilities as a listed City property in an amount equal to the full replacement value which amount shall not be less than the outstanding Principal Balance hereof against loss from or damage by vandalism and fire, with a uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part thereof damaged or destroyed. All policies (or endorsements or riders) evidencing insurance required in this Section shall be carried in the names of the City and the Lessor as their respective interests may appear. Each policy (or endorsement or rider or risk coverage provided by South Dakota Public Assurance Alliance under a risk coverage pool) may be written with a deductible

amount which is customary for Facilities comparable to the Facilities. Any Net Proceeds received by this Section shall be applied as provided in Article VI.

Section 7.3. Administration of Claims, Etc. Neither the City nor the Lessor shall be required to prosecute any claim against or contest any settlement proposed by any insurer, but any of them may prosecute any such claim or contest any such settlement. In the event of a contest by the City, it shall be at the City's expense, and the City may bring such claim or contest in the name of the Lessor, the City or both, and the Lessor will join therein at the City's written request upon the receipt by the Lessor of an indemnity from the City against all costs, liabilities and expenses in connection with such claim or contest.

Section 7.4. Other Insurance and Requirements of Insurance. All insurance or risk coverage required by this Article may be carried under a separate policy or a rider or endorsement; shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State or a self-insurance pool permitted by State law; shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to both parties at least thirty (30) days before the cancellation or revision becomes effective; and shall name the City and the Lessor as insured parties. The City shall deposit with the Lessor policies evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in force and effect. Before the expiration of any such policy, the City shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article, unless such insurance is no longer obtainable in which event the City shall notify the Lessor of this fact. The City has Governmental Liability Coverage issued under and pursuant to the terms, conditions, covenants and stipulations of the Intergovernmental Contract between the City and the SOUTH DAKOTA PUBLIC ASSURANCE ALLIANCE (SDPAA).

Section 7.5. Indemnification. (a) As between the Lessor and the City, the City assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Facilities and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the City, the Lessor or of third parties, and whether such property damage be to the City or the Lessor's property or the property of others, which is proximately caused by the negligent conduct of the City, its officers, employees, agents and lessees, or arising out of the operation, maintenance or use of the Land and Facilities by the City, its officers, employees, agents and lessees. The City hereby assumes responsibility for and agrees to indemnify, defend and hold harmless the Lessor, its directors, officers, employees and agents, and any assignee of the Lessor, without payment being made by the Lessor, from and against all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or its directors, officers, employees, agents or assignees that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part on the foregoing, to the maximum extent permitted by law.

(b) The City further agrees that it will indemnify, defend and hold harmless the Lessor, its directors, officers, employees and agents and any assignee of Lessor, without payment being made by Lessor, from and against any and all claims, demands, suits, liabilities and costs

(including without limitation attorneys' fees and costs and expenses of investigation and proof) arising out of any violation or asserted violation of any law or regulation, including without limitation, any environmental law or regulation, or arising out of the presence on the Land of any hazardous or toxic waste, materials or substances within the meaning of any federal, state or local law or regulation.

Section 7.6. Taxability. In the event that the City shall fail to observe any covenant, agreement or representation in this Lease, which failure results in the Interest portion of the Lease Payment not to be exempt from Federal income tax, the interest rate on the Interest will increase to a rate equal to the current tax-exempt rate of interest set forth in this Lease (initially 2.91%) divided by 67.5%. In addition, the City will pay an amount equal to the difference between the interest paid at the tax-exempt rate and the Interest which would have been paid if the interest rate would have been the taxable rate from the date that this Lease was determined to be taxable, plus any penalties, interest, assessments and additions to tax payable by the holder as a result of the loss of the tax-exempt status of interest on this Lease.

ARTICLE VIII

OPTION TO PREPAY; DISCHARGE

Section 8.1. Option to Prepay in Whole or in Part the Lease. (a) The City shall have the option to prepay the unpaid Principal Balance, plus accrued interest, in whole but not in part except as provided in 8.1(b), on each Interest Payment Date from and after December 15, 2025.

(b) Commencing on the December 15, 2025 Interest Payment Date, partial prepayment of the Principal Balance is allowed once a year on any Interest Payment Date, in minimum principal amounts of \$300,000. In the event of a partial prepayment of the Principal Balance under this Section 8.1(b), the Principal Balance and Interest due hereon will be reamortized and the City will provide a new amortization schedule for the Lessor's approval to be attached hereto as an updated Exhibit B.

Section 8.2. Exercise of Prepayment Purchase Option. The City shall give written notice to the Lessor of the City's intention to exercise either of the City's prepayment options in Section 8.1 not less than 30 days in advance of the date of exercise, and shall pay to the Lessor on the date of exercise an amount equal to the amount of Principal to be prepaid, plus accrued interest to the date of prepayment.

Section 8.3. Discharge of City's Obligation. The City may at any time discharge its obligation to pay the Lease Payments due under this Lease by depositing irrevocably in escrow with a bank or trust company, cash or securities of the type permitted for defeasance of the Lease and amount as shall be required to provide moneys sufficient to pay or prepay all unpaid Lease Payments on the dates when they are due or subject to prepayment as provided in Section 8.1, as determined by the City, together with computations and an opinion letter or verification report of a certified public accounting firm or a nationally-recognized verification agent or a financial consulting firm recognized by the rating agencies as adequate for the purpose showing and attesting to the sufficiency of such moneys and securities for this purpose and an opinion letter of Independent Counsel stating that the deposit of such cash or securities will not cause the Lease to become an "arbitrage bond" under Section 148(a) of the Code.

Section 8.4. Conditions to Prepayment. The City may exercise the rights specified in this Article only if it is not in default under this Lease.

ARTICLE IX

ASSIGNMENT, SUBLEASING, INDEMNIFICATION, MORTGAGING AND SELLING

Section 9.1. Assignment and Subleasing by the City. The rights and obligations of the City under this Lease may not be assigned by the City without the written consent of the Lessor, which shall not be unreasonably withheld; provided that the City may sublease the Land and Facilities, in whole or in part, without the consent of the Lessor, subject, however, to each of the following conditions:

- (i) This Lease and the obligation of the City to make Lease Payments and other payments hereunder, shall remain obligations of the City.
- (ii) The sublease shall require the sublessee to meet the obligations of the City hereunder to the extent of the interest subleased.
- (iii) The City shall, within ten (10) days after the execution thereof and before the effective date, furnish or cause to be furnished to the Lessor, a true and complete copy of such sublease.
- (iv) No sublease by the City shall cause 5% or more, in aggregate area or rental value, of the Land and Project to be used by any entity other than an agency of the State or the City, or a political subdivision of the State, or for a purpose other than a function authorized under the provisions of the Constitution and laws of the State unless the City provides the Lessor with an opinion of Bond Counsel stating that the proposed sublease will not cause the Lease to become subject to federal income taxation.
- (v) No sublease shall cause the interest payable on this Lease to become subject to federal income taxes as evidenced by an opinion of Bond Counsel delivered to the Lessor and the City.

Section 9.2. Restriction on Mortgage or Sale of Project by the Court. Except as provided in Section 9.1, the City will not mortgage, sell, assign, transfer or convey the Land or the Facilities or any portion thereof during the Term of this Lease.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1. Events of Default Defined. Any one or more of the following events shall be "Events of Default" under this Lease:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of forty (45) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Lessor, unless the

Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Lessor shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected.

(c) The occurrence of an Act of Bankruptcy.

Section 10.2. Remedies on Default. Whenever any Event of Default by the City shall have happened and be continuing, the Lessor shall have the right, at its option, to take, but only upon not less than five days written notice to the City, one or any combination of the following remedial steps:

(a) without terminating this Lease, and subject to the rights of any entity subleasing all or any portion of the Land and the Facilities which is not in default under a sublease complying with Section 9.1, re-enter and take possession of the Land and Facilities and exclude the City and any sublessee in default from using it until the default is cured; or

(b) subject to the provisions of Section 3.6, take whatever action at law or in equity may appear necessary or desirable to: (i) collect the Lease Payments then due, (ii) collect any Lease Payments as they become due and payable, or (iii) enforce performance and observance of any obligation, agreement or covenant of the City under this Lease or the Resolution.

This provision does not limit any other remedies which the Lessor may have under the Lease or any other documents.

Section 10.3. Delay Notice. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle any party to exercise any remedy reserved to it in this Lease it shall not be necessary to give any notice, other than such notice as may be required in this Lease.

Section 10.4. No Remedy Exclusive.

No remedy herein conferred upon or reserved to the Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 10.5. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI
ADMINISTRATIVE PROVISIONS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in first class with postage fully prepaid:

If to the City:

City of Yankton
Attn: Finance Officer
PO Box 176
Yankton, SD 57078

If to the Lessor:

Branch Banking and Trust Company
Attn: Government Finance
5130 Parkway Plaza Blvd.
Charlotte, NC 28217

If to the Registrar:

Branch Banking and Trust Company
Attn: Government Finance
5130 Parkway Plaza Blvd.
Charlotte, NC 28217

The above named persons, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.2. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Lessor and the City, their respective successors and assigns.

Section 11.3. Severability. In the event any provision, of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Amendments Changes and Modifications. This Lease may be amended or any of its terms modified only by written amendment authorized and executed by the City and the Lessor; provided that no such amendment shall be effective without the consent of the Lessor or any other person or entity to whom the rights of the Lessor to receive Lease Payments due hereunder has been assigned.

Section 11.5. Further Assurances and Corrective Instruments. The Lessor and the City agree that they will, if necessary, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may

reasonably be required for correcting any inadequate or incorrect description of the Land and Facilities or for carrying out the expressed intention of this Lease.

Section 11.6. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of South Dakota.

Section 11.8. Authorized Officers. Whenever under the provisions of this Lease the approval of the Lessor or the City is required, or the Lessor or the City is required to take some action at the request of the other, such approval of such request shall be given for the Lessor or for the City by an Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

Section 11.9. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.

Section 11.10. Financial Statements. The City shall provide the Lessor and the Original Purchasers as soon as they are available, the audited financial statements of the City, together with such additional information as the Lessor and the Original Purchasers may from time to time reasonably request or as required in the Continuing Disclosure Certificate.

IN WITNESS WHEREOF, the Lessor has caused this Lease to be executed in its corporate name by its duly authorized officer; and the City has caused this Lease to be executed in its name by its duly authorized officers and sealed with its corporate seal, as of the date first above written.

CITY OF YANKTON, SOUTH DAKOTA

By: _____
Its: Mayor


(SEAL)
ATTEST:


Finance Officer

COUNTERSIGNED


Resident Attorney

STATE OF SOUTH DAKOTA }

:SS

COUNTY OF YANKTON }

On this day 23rd of September, 2019 before me, a notary public personally appeared, Nathan Johnson and Al Viereck to me personally known to be the Mayor and Finance Officer of City of Yankton, South Dakota, a municipality of the State of South Dakota, the City Officials referred to in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said political subdivision; that said instrument was signed and sealed in behalf of the City having been authorized by the City Common Council of the City; and said Mayor and Finance Officer acknowledged said instrument to be the free act and deed of said City.

Debra L. Mathews

Notary Public-South Dakota

My Commission Expires: 9-13-22



LESSOR:

**BRANCH BANKING AND TRUST
COMPANY**

By: William B. DaSilva
Its: Assistant Vice President

STATE OF NORTH CAROLINA }

:SS

COUNTY OF MECKLENBURG }

On this 23 day of September, 2019, before me, a Notary Public, personally appeared William B. DaSilva, to me personally known, who, being duly sworn, did say that he is Assistant Vice President of Branch Banking and Trust Company the association referred to in the foregoing instrument; that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors; and she acknowledged said instrument to be the free act and deed of said association.

Brian L. Cain

Notary Public- Brian L. Cain
My Commission Expires: April 29, 2024



EXHIBIT A
Legal Description

That real property upon which the Project will be made located at 2020 Douglas Avenue and legal described as the North West Quarter (NW¼) of the South East Quarter (SE¼) of the North West Quarter (NW¼), Section Seven (S7), Township ninety-three North (T93N), Range fifty-five West (55W) of the fifth Principal Meridian, City of Yankton, Yankton County, South Dakota.

PAYMENT SCHEDULE

Date	Principal Component	Interest Component	Total Lease Payment
09/26/2019	-	-	-
06/15/2020	173,964.01	293,101.67	467,065.68
12/15/2020	265,896.86	201,168.82	467,065.68
06/15/2021	269,765.66	197,300.02	467,065.68
12/15/2021	273,690.75	193,374.93	467,065.68
06/15/2022	277,672.95	189,392.73	467,065.68
12/15/2022	281,713.09	185,352.59	467,065.68
06/15/2023	285,812.01	181,253.67	467,065.68
12/15/2023	289,970.58	177,095.10	467,065.68
06/15/2024	294,189.65	172,876.03	467,065.68
12/15/2024	298,470.11	168,595.57	467,065.68
06/15/2025	302,812.85	164,252.83	467,065.68
12/15/2025	307,218.78	159,846.90	467,065.68
06/15/2026	311,688.81	155,376.87	467,065.68
12/15/2026	316,223.88	150,841.80	467,065.68
06/15/2027	320,824.94	146,240.74	467,065.68
12/15/2027	325,492.94	141,572.74	467,065.68
06/15/2028	330,228.87	136,836.82	467,065.69
12/15/2028	335,033.70	132,031.99	467,065.69
06/15/2029	339,908.44	127,157.25	467,065.69
12/15/2029	344,854.10	122,211.58	467,065.68
06/15/2030	349,871.73	117,193.95	467,065.68
12/15/2030	354,962.36	112,103.32	467,065.68
06/15/2031	360,127.07	106,938.61	467,065.68
12/15/2031	365,366.92	101,698.77	467,065.69
06/15/2032	370,683.00	96,382.68	467,065.68
12/15/2032	376,076.44	90,989.24	467,065.68
06/15/2033	381,548.35	85,517.33	467,065.68
12/15/2033	387,099.88	79,965.80	467,065.68
06/15/2034	392,732.19	74,333.49	467,065.68
12/15/2034	398,446.44	68,619.24	467,065.68
06/15/2035	404,243.84	62,821.85	467,065.69
12/15/2035	410,125.58	56,940.10	467,065.68
06/15/2036	416,092.91	50,972.77	467,065.68
12/15/2036	422,147.06	44,918.62	467,065.68
06/15/2037	428,289.30	38,776.38	467,065.68
12/15/2037	434,520.91	32,544.77	467,065.68
06/15/2038	440,843.19	26,222.49	467,065.68
12/15/2038	447,257.46	19,808.22	467,065.68
06/15/2039	453,765.05	13,300.63	467,065.68
12/15/2039	460,367.34	6,698.34	467,065.68
Total	\$14,000,000.00	\$4,682,627.25	\$18,682,627.25

Ground Lease Agreement

Return.

Prepared by:
Todd Meierhenry
Meierhenry Sargent LLP
315 S. Phillips Avenue
Sioux Falls, SD 57104
(605) 336-3075



STATE OF SOUTH DAKOTA
County of Yankton
Filed for record at 9:15 A M
in Book 547 Page 237

SEP 26 2019

Brian J. Hunhoff
Register of Deeds

Num. Alpha
Margin Tran.
Paid Seal

\$ 30.00 pd
174102

GROUND LEASE AGREEMENT

between

CITY OF YANKTON, SOUTH DAKOTA

as Lessor

and

BRANCH BANKING AND TRUST COMPANY,

CHARLOTTE, NORTH CAROLINA

as Lessee

Dated as of September 26, 2019

THIS GROUND LEASE AGREEMENT, made as of this 26th day of September 2019, by and between CITY OF YANKTON, SOUTH DAKOTA, a political subdivision of the State of South Dakota (the “City”), as Lessor, whose address is PO Box 176, Yankton, SD 57078 and Branch Banking and Trust Company, a North Carolina Banking Corporation, (the “Lessee”), whose address is 5130 Parkway Plaza Blvd., Charlotte, NC 28217, and joined in by the City.

WITNESSETH

In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

**ARTICLE I
DEMISE OF PREMISES AND WARRANTIES**

Section 1.01. Demise. Subject to and upon the terms, conditions, covenants and undertakings hereinafter set forth, the City hereby leases to and permits the use of, and the Lessee hereby leases from the City, the real and personal property described in Exhibit A attached hereto, located in City of Yankton, South Dakota including all buildings, structures, improvements and personal property thereon (hereinafter called the “Premises”).

Section 1.02. Warranties. The City covenants and warrants to the Lessee:

- (1) That the City has good and merchantable title to the Premises, has authority to enter into, execute and deliver this Lease, and has duly authorized the execution and delivery of this Lease,
- (2) That the Premises are not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the renovation, construction and equipping of certain buildings and other improvements (hereinafter called the “Facilities”) on the Premises, as contemplated by that certain Lease-Purchase Agreement by and between the City and the Lessee of even date herewith (hereinafter called the “Agreement”);
- (3) That all taxes, assessments or impositions of any kind with respect to the Premises, except current taxes, have been paid in full;
- (4) That the Premises are properly zoned for the purpose of the Facilities; and
- (5) That the City has authority to enter into, execute and deliver the Agreement, and has duly authorized its execution and delivery.

**ARTICLE II
TERM AND RENT**

Section 2.01. Term. The term of this Lease shall commence as of September 26, 2019 and ending on December 15, 2039, with automatic 10-year extensions in the event that the Lease Agreement between Branch Banking and Trust Company and City of Yankton, South Dakota is not paid in full on or before December 15, 2039.

Section 2.02. Rent. The rent for the period from September 26, 2019 to and including December 15, 2019 shall be One Dollar (\$1.00) payable in one installment in advance on the date hereof. The rent for the extended term, if any, shall be One Dollar (\$1.00) payable in one installment in advance on or about September 26, 2019.

ARTICLE III

USE OF PREMISES ADDITIONAL COVENANTS

Section 3.01. Use. The Lessee shall not use or permit the use of the Premises for any unlawful purpose.

Section 3.02. Quiet Enjoyment. The City covenants that upon the Lessee's paying the rent reserved herein, and performing all conditions and covenants set forth in this Lease and the Agreement, the Lessee shall and may peaceably have, hold and enjoy the Premises for the term of this Lease. The Lessee covenants that upon expiration of this Lease, either on the date specified in Section 2.01 hereof or earlier pursuant to the terms of the Agreement, it shall give the City peaceable possession of the Premises, together with the Facilities and any other improvements constructed thereon pursuant to the Agreement.

Section 3.03. Assignment and Subletting. The Lessee shall have the right to assign its interest in this Lease, and to sublet the Premises in accordance with the Agreement.

Section 3.04. Environmental Matters. The City represents and warrants that it has no knowledge of the presence of hazardous or toxic waste, materials or substances ("Hazardous Materials") within the meaning of any federal, state or local law or regulation relating to environmental matters, on or about the Premises. The City further agrees that it will indemnify, defend and hold harmless the Lessee, its directors, officers, employees and agents, and any assignee of the Lessee, without payment being made by the Lessee, from and against any and all claims, demands, suits, liabilities and costs (including without limitation, attorneys' fees, and costs and expenses of investigation and proof) arising out of any violation or asserted violation of any environmental law or regulation or out of the presence on the Premises of any Hazardous Materials.

Section 3.05. Additional Covenants. In the event that any person or entity, however organized (other than the Lessee or any assignee of the Lessee), shall be determined to hold any interest that in any manner affects the City's good and merchantable title to the Premises, the City shall use its best efforts to acquire the interest so held, such acquisition to be made at the City's sole cost and expense. The City hereby agrees to save and keep harmless the Lessee, or any assignee of the Lessee, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees) of whatever kind and nature, imposed on, incurred by or asserted against the Lessee, or any assignee of the Lessee, that in any way relate to or arise out of the assertion of any interest affecting the City's good and merchantable title to the Premises by any person or entity, however organized (other than the Lessee or any assignee of the Lessee).

ARTICLE IV
DEFAULT: REMEDIES

Section 4.01. Default. A “default” or an “event of default” shall have occurred if the Lessee shall fail to observe or perform any of the obligations of the Lessee otherwise provided herein.

Section 4.02. City’s Remedies. Upon the occurrence of an event of default by the Lessee hereunder, which shall remain uncured for thirty (30) days after receipt by the Lessee of written notice of such event of default, the City may thereafter or any time subsequently during the existence of such breach or default: (1) enter into and upon the Premises and repossess the same, expelling and removing therefrom all persons and property, and (ii) terminate this Lease, holding the Lessee liable for damages for its breach, including reasonable attorneys’ fees and costs.

ARTICLE V
BINDING EFFECT: SUCCESSORS AND ASSIGNS

Section 5.01. Binding Effect. This Lease shall be binding upon, and inure to the benefit of, the Lessee, the City, and their successors and assigns.

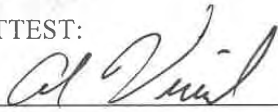
IN WITNESS WHEREOF, the parties hereto have executed Lease as of the date first above written.



CITY OF YANKTON, SOUTH DAKOTA

By: 
Its: Mayor


ATTEST:




Finance Officer

STATE OF SOUTH DAKOTA }
:SS
CITY OF YANKTON }

On this 23rd day of September, 2019, before me, a notary public personally appeared Nathan Johnson and Al Viereck, to me personally known to be the Mayor and Finance Officer of City of Yankton, South Dakota, a City of the State of South Dakota, the City Officials referred to in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said political subdivision; that said instrument was signed and sealed in behalf of the City having been authorized by the governing board of the City; and said Mayor and Finance Officer acknowledged said instrument to be the free act and deed of said City.


Notary Public-South Dakota
My Commission Expires: 9-13-22

COUNTERSIGNED



Resident Attorney



**BRANCH BANKING AND TRUST
COMPANY**

By: *William B. DaSilva*
Its: Assistant Vice President

STATE OF NORTH CAROLINA }

:SS

COUNTY OF MECKLENBURG }

On this 23 day of September 2019, before me, a Notary Public, personally appeared William B. DaSilva, to me personally known, who, being duly sworn, did say that he is Assistant Vice President of Branch Banking and Trust Company, the corporation referred to in the foregoing instrument; that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be the free act and deed of said corporation.

Brian L Cain

Notary Public-North Carolina Brian L Cain
My Commission Expires: April 24, 2029



EXHIBIT A

That real property upon which the Project will be made located at 2020 Douglas Avenue and legal described as the North West Quarter (NW¹/₄) of the South East Quarter (SE¹/₄) of the North West Quarter (NW¹/₄), Section Seven (S7), Township ninety-three North (T93N), Range fifty-five West (55W) of the fifth Principal Meridian, City of Yankton, Yankton County, South Dakota.

Debt Service Schedule

\$14,000,000

City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
09/26/2019	-	-	-	-
06/15/2020	173,964.01	2.910%	293,101.67	467,065.68
12/15/2020	265,896.86	2.910%	201,168.82	467,065.68
06/15/2021	269,765.66	2.910%	197,300.02	467,065.68
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06/15/2029	339,908.44	2.910%	127,157.25	467,065.69
12/15/2029	344,854.10	2.910%	122,211.58	467,065.68
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12/15/2037	434,520.91	2.910%	32,544.77	467,065.68
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06/15/2039	453,765.05	2.910%	13,300.63	467,065.68
12/15/2039	460,367.34	2.910%	6,698.34	467,065.68
Total	\$14,000,000.00	-	\$4,682,627.25	\$18,682,627.25

Yield Statistics

Bond Year Dollars	\$160,915.03
Average Life	11.494 Years
Average Coupon	2.9100000%
Net Interest Cost (NIC)	2.9100000%
True Interest Cost (TIC)	2.9093036%
Bond Yield for Arbitrage Purposes	2.9093036%
All Inclusive Cost (AIC)	2.9958828%

IRS Form 8038

Net Interest Cost	2.9100000%
Weighted Average Maturity	11.494 Years

Yankton COP 9 20 19 FINAL | SINGLE PURPOSE | 9/20/2019 | 11:12 AM

Investor's Letter



Finance

BB&T Governmental

5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
(704) 954-1700
Fax (704) 954-1799

September 26, 2019

City of Yankton
Attn: Finance Officer
PO Box 176
Yankton, SD 57078

\$14,000,000
City of Yankton, South Dakota
Lease Agreement

Ladies and Gentlemen:

In connection with the financing by Branch Banking and Trust Company (the "Bank") on this date of the (i) Lease Agreement, dated September 26, 2019 (the "Lease"), between the Bank, as lessor, and the City of Yankton, South Dakota, as lessee (the "Lessee"), I hereby certify on behalf of the Bank as follows:

1. The Bank has performed its own due diligence and financial analysis with regard to the Agreements and the ability of the Lessee to make the payments on the Lease from the Lessee's general credit and which are appropriated annually by the governing body of the Lessee described in the resolution of the Commission of the Lessee, adopted on July 22, 2019 (the "Resolution") and the Lease. The Bank acknowledges that it has made its own inquiry and analysis with respect to the Lessee and the other material factors affecting the payments by the Lessee from amounts budgeted and appropriated to the payment of the Lease by the governing body of the Lessee. The Bank acknowledges that the Lease is secured pursuant to the Bank's leasehold interest in the property pursuant to a Ground Lease Agreement, dated September 26, 2019 (the "Ground Lease"), between the Lessee and the Lessor.

2. The Bank acknowledges that neither the Lessee nor its governing body, its members or any of its officers, employees or agents have any responsibility to us for the accuracy or completeness of information regarding the Lessee obtained by us from any source other than directly from Dougherty & Company LLC, as placement agent, and the Lessee, the provisions for payment thereof, or the sufficiency of any security therefor. We acknowledge that we have assumed responsibility for obtaining such information and making such review as we have deemed necessary or desirable in connection with our decision regarding the loan to the Lessee evidenced by the Lease.

3. We have been offered copies of or access to all documents relating to the Lease and all records, reports, financial statements and other information concerning the Lessee and pertinent to the source of payment for the Lease which we, as a reasonable investor, have requested and to which we, as a reasonable investor, would attach significance in making an investment decision.



Finance

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(704) 954-1700
Fax (704) 954-1799

4. The Bank has sufficient knowledge and experience in financial and business matters, including financing of property through a lease, to be able to evaluate the risks and merits of the investment represented by the financing of the Lease.

5. The Bank is either (a) an "accredited investor," as defined in Rule 501(A)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended (an "Institutional Accredited Investor") or (b) a "qualified institutional buyer," as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (a "Qualified Institutional Buyer").

6. We represent that we are currently lending the funds to the Lessee for the financing of the Lease for our own account, for investment purposes or in the ordinary course of our banking business, and with no present intention of reselling or redistributing or assigning the Lease or interests therein, provided that the foregoing does not prevent us from selling or redistributing or assigning the Lease or participation interests therein at a later date in compliance with law and the provisions of the Lease and related legal documents.


7. We understand that the Lease has not been registered with any federal or state securities agency or commission.

8. We acknowledge that the Lease is an obligation of the Lessee to which the Lessee will annually budget for the payments due under the Lease pursuant to the terms of the Lease.

9. The Bank is not requiring a CUSIP number for the Lease and does not want a CUSIP number attached to the Lease.

The foregoing representations shall survive the execution and delivery to us of the Lease and the instruments and documents contemplated thereby.

BRANCH BANKING AND TRUST COMPANY

By: 
Name: William DaSilva
Title: Assistant Vice President

Wire Transfer Agreement

Wire Transfer Agreement

This Wire Transfer Agreement is dated as of September 26, 2019 (this "Agreement") and is by and between CITY OF YANKTON, SOUTH DAKOTA (the "Borrower") and BRANCH BANKING AND TRUST COMPANY ("BB&T").

RECITALS

The Borrower is, simultaneously with the execution and delivery of this Agreement, executing and delivering a (i) Lease Agreement, dated September 26, 2019, between the Borrower and BB&T, and (ii) Ground Lease Agreement, dated September 26, 2019, between the Borrower and BB&T (collectively, the "Contracts"). The purpose of the Contracts are to provide for BB&T's advance of a total aggregate amount of \$14,000,000 to the Borrower to enable the Borrower to finance the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park (the "Project"), and to pay related financing costs.

In order to prevent unauthorized or fraudulent wire transfers through cyber fraud and other means, BB&T and the Borrower hereby agree to the following:

Section 1. Wire Transfer Requirements. In the event a wire transfer is made by BB&T to disburse funds as contemplated by the Contracts (a "Disbursement"), said wire transfer shall be delivered as directed in a written "Disbursement Authorization" provided to BB&T by a representative of the Borrower, subject to the terms and conditions set forth herein. For the purposes of this Agreement, a representative of the Borrower shall include employees and elected and/or appointed officials of the Borrower, bond counsel, the Borrower's legal counsel, or the Borrower's financial advisor.

Section 2. Verification Procedures. Prior to making any Disbursement pursuant to a Disbursement Authorization not delivered to BB&T in person by a representative of the Borrower, BB&T shall verify such Disbursement Authorization verbally via telephone communication with a representative of the Borrower. The Borrower shall ensure that a representative of the Borrower will provide such verification to BB&T. The Borrower shall not disclose, or allow to be disclosed, such BB&T verification procedures to any third party unless there is a legitimate business need to make such disclosure or such disclosure is required by law, and the Borrower accepts the risk of such third party knowledge of the security procedures. If the Borrower has reason to believe that a security procedure has been obtained by or disclosed to an unauthorized person or learns of any unauthorized transfer or of any discrepancy in a transfer request, then the Borrower shall notify BB&T immediately.

Section 3. Payee Identification. The Borrower is solely responsible for accurately identifying the wire transfer information contained in the Disbursement Authorization delivered to BB&T by a representative of the Borrower, including but not limited to the bank name and its ABA number, beneficiary's account name and account number and beneficiary's physical address, together with other information requested by BB&T (collectively, "Remittance Instructions"). If the Remittance Instructions describe a beneficiary inconsistently by name and account number, the Borrower acknowledges that BB&T may make payment on the basis of the account number alone, that BB&T is not obligated to detect such errors, and that the Borrower assumes the risk of any loss resulting therefrom.

Section 4. Duty to Reconcile Written Confirmation. Upon request from a representative of the Borrower, BB&T shall use its best efforts to send a representative of the Borrower written confirmation of the Disbursement in the form of a reference number, beneficiary name and wire amount. A representative of the Borrower shall promptly review and reconcile the written confirmation of the Disbursement sent by BB&T, and shall report to BB&T in writing, promptly, but in no event later than ten (10) business days

after the date of such written confirmation, any unauthorized, erroneous, unreceived or improperly executed payment. BB&T and the Borrower agree that ten (10) business days is a reasonable time for the detection and reporting to BB&T of such information. After that time, all items on the written confirmation will be considered correct and the Borrower will be precluded from recovering from BB&T if such wire transfer identified in the written confirmation was actually made by BB&T. For the avoidance of doubt, any such writings can be provided electronically.

Section 5. Unauthorized Payments. Notwithstanding any other provision herein, if a Disbursement has been verified by a representative of the Borrower pursuant to Section 2, it shall be binding on the Borrower if BB&T acted in good faith in making such Disbursement.

Section 6. Recordation. BB&T may record any telephone conversation between BB&T and a representative of the Borrower in order to reduce the risk of unauthorized or erroneous transfers. BB&T may retain such recordings for as long as BB&T may deem necessary.

Section 7. Indemnification and Hold Harmless. If BB&T complies with the provisions of this Agreement, the Borrower agrees that BB&T shall not be responsible for any communication or miscommunication by a representative of the Borrower, and the Borrower further agrees to indemnify, to the extent allowed by law, BB&T and hold BB&T harmless from and against any and all losses, claims, expenses, suits, costs or damages, demands or liabilities of whatever kind or nature, whether now existing or hereafter relating in any way to a wire transfer made pursuant to the Contracts.

Section 8. Applicable Law. All wire transfer orders are governed by Article 4A of the Uniform Commercial Code, except as any provisions thereof that may be and are modified by the terms hereof. If any part of the applicable wire transfer order involves the use of the Fedwire, the rights and obligations of BB&T and the Borrower regarding that wire transfer order are governed by Regulation J of the Federal Reserve Board.

Section 9. Choice of Law. The parties intend that South Dakota law shall govern this Agreement.

Section 10. Amendments. This Agreement may not be modified or amended unless such amendment is in writing and signed by BB&T and the Borrower.

Section 11. No Third-Party Beneficiaries. There are no parties intended to be or which shall be deemed to be third-party beneficiaries of this Agreement.

Section 12. Successors and Assigns. All of the covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and assigns.

Section 13. Severability. If any court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

Section 14. Counterparts. This Agreement may be executed in any number of counterparts, including separate counterparts, each executed counterpart constituting an original but all together only one agreement.

Section 15. Termination. This Agreement shall cease and terminate upon termination of the Contracts.

Section 16. E-Verify. BB&T understands that “E-Verify” is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. BB&T uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended.

Section 17. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; 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.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, each of the parties has caused this Wire Transfer Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

CITY OF YANKTON, SOUTH DAKOTA

[SEAL]

By: 

Name: Nathan Johnson

Title: Mayor

Attest:

By: 

Name: Al Viereck

Title: Finance Officer

BRANCH BANKING AND TRUST COMPANY

By: _____

Name: William DaSilva

Title: Assistant Vice President

[WIRE TRANSFER AGREEMENT, DATED AS OF SEPTEMBER 26, 2019]

IN WITNESS WHEREOF, each of the parties has caused this Wire Transfer Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

CITY OF YANKTON, SOUTH DAKOTA

[SEAL]

By: _____

Name: _____

Title: _____

Attest:

By: _____

Name: _____

Title: _____

BRANCH BANKING AND TRUST COMPANY

By: William DaSilva _____

Name: William DaSilva

Title: Assistant Vice President

[WIRE TRANSFER AGREEMENT, DATED AS OF SEPTEMBER 26, 2019]

DMNORTH #7006228 v3

Acknowledgement of Delivery of Securities

STATE OF SOUTH DAKOTA
CITY OF YANKTON, SOUTH DAKOTA
LEASE AGREEMENT BETWEEN
BRANCH BANKING AND TRUST COMPANY AND CITY OF YANKTON, SOUTH DAKOTA

ACKNOWLEDGMENT OF DELIVERY OF LEASE AGREEMENT

The undersigned, Owner in a Lease Agreement :

Issuer: City of Yankton
Address: Yankton, South Dakota
Type of Governing Body: Commission with City Manager
Designation of Securities: Lease Agreement
Principal Component Amount: \$14,000,000
Dated: September 26, 2019

does hereby acknowledge receipt of the Lease Agreement above designated.

Dated: September 26, 2019

BRANCH BANKING AND TRUST COMPANY

By 

William DaSilva
Its Assistant Vice President

Certificates as to Countersigning

STATE OF SOUTH DAKOTA
CITY OF YANKTON, SOUTH DAKOTA
LEASE AGREEMENT BETWEEN
BRANCH BANKING AND TRUST COMPANY AND CITY OF YANKTON, SOUTH DAKOTA

**CERTIFICATE AS TO COUNTERSIGNING
OF SECURITIES BY RESIDENT ATTORNEY**


STATE OF SOUTH DAKOTA)
 :SS
CITY OF MINNEHAHA)

I, the undersigned, being an attorney actually residing in the State of South Dakota and duly licensed to practice therein, hereby certify that for the purpose of Section 6-8B-21 and 6-8B-22 South Dakota Codified Laws; that I caused to be countersigned by my signature the securities of the following issue:

Name of Public Body: City of Yankton
Address: Yankton, South Dakota
Type of Governing Body: Commission with City Manager
Designation of Securities: Lease Agreement

that I reside in the State of South Dakota; that I am duly licensed to practice law therein; that I maintain an office at 315 South Phillips Avenue, Sioux Falls, South Dakota; and that by virtue of my signature on each such security, it shall not be rendered invalid or unenforceable by reason of the provisions of Section 6-8B-22 South Dakota Codified Laws.

WITNESS my hand this 26th day of September, 2019.



Todd Meierhenry

General Certificate

GENERAL CERTIFICATE

The undersigned, being respectively the duly qualified and acting officials designated, of the City of Yankton, Yankton County, South Dakota, hereby certify that we did on the date hereof, in our official capacities as such officers, sign our own proper names to the Lease Agreement and hereby certify as follows:

1. The City is a political subdivision duly organized and existing under the laws of the State of South Dakota (the "State") and is authorized and empowered pursuant to the provisions of the constitutional and statutory authority (the "Authorizing Legislation") cited in the Resolution authorizing to execute the Lease Agreement adopted by the City Commission on July 22, 2019, (the "Resolution"), to execute the Lease Agreement on behalf of the City for the purposes specified.
2. The City has complied with all provisions of the Authorizing Legislation and the Constitution and laws of the State and has full power and authority to consummate all transactions contemplated by this Agreement, the Lease Agreement and the Resolution and all authorizations, approvals, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction over the subject matter have been duly obtained timely as required (except for any approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Lease Agreement).
3. The Resolution, as adopted and when certified and delivered on behalf of the City Commission, will be in the form approved by the City on July 22, 2019, with only such changes therein or modifications thereof as to which the Purchaser, the City and Bond Counsel shall mutually agree. If any changes in or modifications to the Resolution are not acceptable to the Purchaser, the Purchaser shall have the right to cancel its obligations to purchase the Lease Agreement hereunder. This Agreement and the Resolution, when executed and delivered or as adopted and delivered, will constitute valid and binding obligations of the City, enforceable in accordance with their respective terms. The Lease Agreement, when issued, delivered and paid for as herein provided, will have been duly executed, authenticated, issued and delivered and will constitute valid and binding obligations of the City payable as to principal, premium, if any, and interest and being secured as provided in the Resolution, enforceable in accordance with their terms and entitled to the benefits and security of the Resolution.
4. The City will apply the proceeds from the sale of the Lease Agreement as specified in the Resolution.

5. The City has duly authorized all necessary action to be taken for: (1) the execution of the Lease Agreement upon the terms set forth herein and in the Resolution; (2) the execution, delivery, receipt and due performance of this Agreement, the Lease Agreement, the Resolution, and any and all such other agreements and documents as may be required to be executed, delivered and received in order to carry out, give effect to and consummate the transactions contemplated.
6. To the best of the City's knowledge, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or threatened in writing against or affecting the City (1) affecting or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Lease Agreement or the collection of special assessments or the levy of taxes pledged or to be pledged to pay debt service with respect to the Lease Agreement, or (2) wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated or the validity of the Lease Agreement, this Agreement, the Resolution, or any agreement or instrument to which the City is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.
7. To the best of the City's knowledge, the execution and this Agreement, the Lease Agreement, the Resolution, and the other agreements contemplated hereby, and compliance with the provisions thereof, will not conflict with or constitute on the part of the City a breach of or a default under any existing law, court or administrative regulation, decree or order or any resolution, agreement, indenture or other instrument to which the City is subject or by which it is or may be bound nor will such execution and delivery or performance and compliance with the terms thereof result in the creation or imposition of any lien, charge or other encumbrance of any nature whatsoever upon any of its property or assets except as provided in the Lease Agreement and the Resolution. The City is not at present in default and has never been in default with respect to the payment of any principal of or interest on any bond or other evidence of indebtedness for borrowed money.
8. The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.
9. Any certificates signed by the Mayor of the City Commission or any of the duly authorized officials and representatives of the City and delivered to the Purchaser shall be deemed a representation made by the City to the Purchaser as to the statements made therein.
10. If applicable, the City will cooperate with the Purchaser in qualifying the Lease Agreement for offer and sale under the securities or Blue Sky laws of such jurisdictions of the United States as the Purchaser may request; provided, however, that the City is not required to consent to suit or to service of process in any jurisdictions or otherwise to waive any defenses that the City might have under the laws of the State or of the United States of America. If applicable, the City consents to the use by the Purchaser in the course of the

Purchaser's compliance with the securities or Blue Sky laws of the various jurisdictions of the documents relating to the Lease Agreement, subject to the right of the City to withdraw such consent for cause by written notice to the Purchaser. The City shall provide the Purchaser with such information regarding the current financial condition and ongoing operations of the City as the City shall deem material and such other information concerning the City as the Purchaser may reasonably request.

11. We did on the date hereof, in our official capacities as such officers, sign our own proper names to the Lease Agreement.
12. We further certify that the City has duly performed all of its obligations to be performed prior to the closing time. We further certify that said obligations have been in all respects duly executed for delivery pursuant to authority conferred upon us as such officers; that no obligations other than as above described have been issued pursuant to such authority and that none of the proceedings or records which have been certified to the purchasers of said obligations or to the attorneys approving said obligations has been in any manner repealed, amended or changed except as shown by the proofs furnished, and that there has been no material change in the financial condition of the City or the facts affecting said obligations except as shown by the proofs so furnished.

Mayor

Al Wind

Finance Officer

Dated: September 26, 2019

NOTARY'S CERTIFICATE RE SIGNATURES

The undersigned, a notary public, in and for the State of South Dakota, does hereby certify that I am well acquainted with Mayor and Finance Officer and with their signatures; that said persons are respectively the above designated officials of the City of Yankton, Yankton County, South Dakota, and that the signatures above written are the true and correct signatures of said officers.

Dated: September 26, 2019
(SEAL)

Todd Meierhenry

Type Name:
My commission expires:

**My Commission Expires
October 20, 2021**



Signature and Non Litigation Certificate

STATE OF SOUTH DAKOTA
CITY OF YANKTON, SOUTH DAKOTA
LEASE AGREEMENT BETWEEN
BRANCH BANKING AND TRUST COMPANY AND CITY OF YANKTON, SOUTH DAKOTA

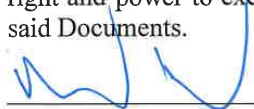
SIGNATURE AND NON LITIGATION CERTIFICATE

The undersigned, being respectively the duly qualified and acting officials designated, of the City of Yankton, South Dakota (the "City"), hereby certify that we did on the date hereof, in our official capacities as such officers, sign our own proper names to the \$14,000,000 Lease Agreement dated September 26, 2019 (the "Lease"), between the City and Branch Bank and Trust Company, a North Carolina Banking Corporation ("BB&T"), a Ground Lease Agreement, dated September 26, 2019, between the City and BB&T, and the Wire Transfer Agreement, dated September 26, 2019, between the City and BB&T (collectively, the "Documents").

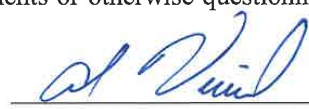
We further certify that we are now and were on the date of signing the Documents the duly qualified and acting officers indicated thereon and duly authorized to execute the same, and we hereby ratify, confirm and adopt the facsimile or manual signatures on said registered securities (the Lease) as the true and proper signatures for the execution thereof.

We further certify that said Documents have been in all respects duly executed for delivery pursuant to authority conferred upon us as such officers; that no obligations other than as above described have been issued pursuant to such authority and that none of the proceedings or records which have been certified to the purchasers of said obligations or to the attorneys approving said obligations has been in any manner repealed, amended or changed except as shown by the proofs furnished, and that there has been no material change in the financial condition of the City or the facts affecting said obligations except as shown by the proofs so furnished.

We further certify that no referendum petition has been filed with reference to any Ordinance or Resolution or other action of the City relating to the Documents, and that there is no litigation threatened or pending questioning the organization or boundaries of said City, or the right and power to execute and deliver said Documents or otherwise questioning the validity of said Documents.



Mayor



Finance Officer

Dated: September 26, 2019

NOTARY'S CERTIFICATE RE SIGNATURES

The undersigned, a notary public, in and for the State of South Dakota, does hereby certify that I am well acquainted with Mayor and Finance Officer and with their signatures; that said persons are respectively the above designated officials of the City of Yankton, South Dakota, and that the signatures above written are the true and correct signatures of said officers.

Dated: September 26, 2019
(SEAL)





Type Name: _____
My Commission Expires
October 20, 2021

Official Receipt for Payment of Purchase

STATE OF SOUTH DAKOTA
CITY OF YANKTON, SOUTH DAKOTA
LEASE AGREEMENT BETWEEN
BRANCH BANKING AND TRUST COMPANY AND CITY OF YANKTON, SOUTH DAKOTA

OFFICIAL RECEIPT FOR PAYMENT

The undersigned, being the duly qualified, acting and hereinafter designated official of the City of Yankton Commission, Yankton, South Dakota, hereby certifies and acknowledges that on the 26th day of September 2019 I received from Branch Banking and Trust Company, as the Lessor \$14,000,000, for the the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park and personal property and that I thereupon delivered said Lease Agreement to said Lessor.

WITNESS my hand officially as such designated official this 26th day of September 2019.



Finance Officer
City of Yankton, South Dakota

Certificate Regarding Completeness of Transcript

STATE OF SOUTH DAKOTA
CITY OF YANKTON, SOUTH DAKOTA
LEASE AGREEMENT BETWEEN
BRANCH BANKING AND TRUST COMPANY AND CITY OF YANKTON, SOUTH DAKOTA

CERTIFICATE RE COMPLETENESS OF TRANSCRIPT

The undersigned, being the duly appointed, qualified and acting official, acting as such and having charge of the official records of the hereinafter designated Issuer, at all times hereinafter referred to, certifies as follows:

NAME OF PUBLIC BODY: City of Yankton
ADDRESS: Yankton, South Dakota
TYPE OF GOVERNING BODY: Commission with City Manager
DESIGNATION OF SECURITIES: Lease Agreement

1. That with reference to every meeting of the governing body of said Issuer held, with reference to any matter relating to the securities herein referred to, that all members thereof were present and voting affirmatively, unless specifically stated in the minutes to the contrary, and that upon all resolutions and motions taken in connection therewith, that yea and nay votes were taken, and in every action, the vote was unanimous and without any nay votes being taken unless specifically stated in the minutes aforesaid; and that all members were present and voted in all actions, unless otherwise stated therein.

2. That the attached and foregoing is a true, correct and complete copy of the Minutes of the governing body of said Issuer relating to the issuance of the above designated securities.

3. That each and all of the copies of Minutes including the affidavits of publication, hereafter attached hereto, constitute a full and complete transcript of all of the minutes of the meetings referred to therein and that the foregoing constitutes a full and complete transcript of all of the proceedings had by said governing body in connection with the issuance of the above designated securities of Issuer, and that all of the proceedings were duly signed by the proper officials of said governing body, the seal of said governing body affixed thereto, and that all of the proceedings requiring publication were duly published, as required by law in the official newspaper of said Issuer.

Dated: September 26, 2019



Type name: Al Viereck
Official title: Finance Officer
Address: Yankton, South Dakota

State Bond Information Statement

CERTIFICATE OF MAILING INFORMATION RETURN

\$14,000,000

**CITY OF YANKTON
YANKTON COUNTY, SOUTH DAKOTA**

**LEASE AGREEMENT BETWEEN BRANCH BANKING AND
TRUST COMPANY AND THE CITY OF YANKTON,
SOUTH DAKOTA**

I, Todd Meierhenry, hereby state and certify as follows:

That for and on behalf of City of Yankton, I caused to be mailed by first class mail, postage prepaid, on the date hereof, an Information Statement required pursuant to SDCL §6-8B-19, to the Secretary of State, Pierre, South Dakota, a copy of which is hereunto attached.

Dated this 3rd day October 2019.

By



Its Bond Counsel

On behalf of City of Yankton

RECEIVED

OCT 07 2019

STATE OF SOUTH DAKOTA
CITY OF YANKTON, SOUTH DAKOTA
LEASE AGREEMENT BETWEEN
BRANCH BANKING AND TRUST COMPANY AND CITY OF YANKTON, SOUTH DAKOTA
S.D. SEC. OF STATE

BOND INFORMATION STATEMENT

State of South Dakota
SDCL 6-8B-19

Return to: Secretary of State
State Capitol
500 E. Capitol
Pierre, SD 57501-5077


FILING FEE: \$10.00

TELEPHONE: # (605) 773-3537

Every public body, authority, or agency issuing any general obligation, revenue, improvements, industrial revenue, special assessment, or other bonds of any type shall file with the Secretary of State a bond information statement concerning each issue of bonds.

1. Name of issuer: City of Yankton, South Dakota.
2. Designation of issue: Lease Agreement
3. Date of issue: September 26, 2019
4. Purpose of issue: To provide funds for the acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park on land owned by the City of Yankton, South Dakota.
5. Type of bond: tax-exempt.
6. Principal amount and denomination of bond: \$14,000,000
7. Paying dates of principal and interest:
See attached Schedule.
8. Amortization schedule:
See attached Schedule.
9. Interest rate or rates, including total aggregate interest cost:
See attached Schedule.

This is to certify that the above information pertaining to the Lease Agreement is true and correct on this 26th day of September, 2019.


By: Al Viereck
Its: Finance Officer

\$14,000,000

City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
09/26/2019	-	-	-	-
06/15/2020	173,964.01	2.910%	293,101.67	467,065.68
12/15/2020	265,896.86	2.910%	201,168.82	467,065.68
06/15/2021	269,765.66	2.910%	197,300.02	467,065.68
12/15/2021	273,690.75	2.910%	193,374.93	467,065.68
06/15/2022	277,672.95	2.910%	189,392.73	467,065.68
12/15/2022	281,713.09	2.910%	185,352.59	467,065.68
06/15/2023	285,812.01	2.910%	181,253.67	467,065.68
12/15/2023	289,970.58	2.910%	177,095.10	467,065.68
06/15/2024	294,189.65	2.910%	172,876.03	467,065.68
12/15/2024	298,470.11	2.910%	168,595.57	467,065.68
06/15/2025	302,812.85	2.910%	164,252.83	467,065.68
12/15/2025	307,218.78	2.910%	159,846.90	467,065.68
06/15/2026	311,688.81	2.910%	155,376.87	467,065.68
12/15/2026	316,223.88	2.910%	150,841.80	467,065.68
06/15/2027	320,824.94	2.910%	146,240.74	467,065.68
12/15/2027	325,492.94	2.910%	141,572.74	467,065.68
06/15/2028	330,228.87	2.910%	136,836.82	467,065.69
12/15/2028	335,033.70	2.910%	132,031.99	467,065.69
06/15/2029	339,908.44	2.910%	127,157.25	467,065.69
12/15/2029	344,854.10	2.910%	122,211.58	467,065.68
06/15/2030	349,871.73	2.910%	117,193.95	467,065.68
12/15/2030	354,962.36	2.910%	112,103.32	467,065.68
06/15/2031	360,127.07	2.910%	106,938.61	467,065.68
12/15/2031	365,366.92	2.910%	101,698.77	467,065.69
06/15/2032	370,683.00	2.910%	96,382.68	467,065.68
12/15/2032	376,076.44	2.910%	90,989.24	467,065.68
06/15/2033	381,548.35	2.910%	85,517.33	467,065.68
12/15/2033	387,099.88	2.910%	79,965.80	467,065.68
06/15/2034	392,732.19	2.910%	74,333.49	467,065.68
12/15/2034	398,446.44	2.910%	68,619.24	467,065.68
06/15/2035	404,243.84	2.910%	62,821.85	467,065.69
12/15/2035	410,125.58	2.910%	56,940.10	467,065.68
06/15/2036	416,092.91	2.910%	50,972.77	467,065.68
12/15/2036	422,147.06	2.910%	44,918.62	467,065.68
06/15/2037	428,289.30	2.910%	38,776.38	467,065.68
12/15/2037	434,520.91	2.910%	32,544.77	467,065.68
06/15/2038	440,843.19	2.910%	26,222.49	467,065.68
12/15/2038	447,257.46	2.910%	19,808.22	467,065.68
06/15/2039	453,765.05	2.910%	13,300.63	467,065.68
12/15/2039	460,367.34	2.910%	6,698.34	467,065.68
Total	\$14,000,000.00	-	\$4,682,627.25	\$18,682,627.25

Yield Statistics

Bond Year Dollars	\$160,915.03
Average Life	11.494 Years
Average Coupon	2.9100000%
Net Interest Cost (NIC)	2.9100000%
True Interest Cost (TIC)	2.9093036%
Bond Yield for Arbitrage Purposes	2.9093036%
All Inclusive Cost (AIC)	2.9958828%

IRS Form 8038

Net Interest Cost	2.9100000%
Weighted Average Maturity	11.494 Years

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Tax Exemption Certificate and Agreement

TAX COMPLIANCE CERTIFICATE

Dated as of September 26, 2019

CITY OF YANKTON, SOUTH DAKOTA

\$14,000,000
CITY OF YANKTON, SOUTH DAKOTA
LEASE PURCHASE AGREEMENT

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* * *

TAX COMPLIANCE AGREEMENT

THIS TAX COMPLIANCE CERTIFICATE (the “Tax Certificate”), entered into as of September 26, 2019, between the **CITY OF YANKTON, SOUTH DAKOTA**, a political subdivision organized and existing under the laws of the State of South Dakota (the “City”).

RECITALS

1. This Tax Certificate is being executed and delivered in connection with the delivery by the City of \$14,000,000 principal component amount of the City’s Lease Agreement (the “City Lease Agreement”), dated as of September 26, 2019, between the City and Brank Banking and Trust Company, a North Carolina Banking Corporation as lessor (the “Lessor”), for the purposes described in this Tax Certificate and in the City Lease Agreement.

2. The Internal Revenue Code of 1986, as amended (the “Code”), and the applicable Regulations and rulings issued by the U.S. Treasury Department (the “Regulations”), impose certain limitations on the uses and investment of the proceeds and of certain other money relating to the City Lease Agreement and set forth the conditions under which the Interest Component of City Base Rentals made with respect to City Lease Agreement will be excluded from gross income for federal income tax purposes.

3. The City is entering into this Tax Certificate in order to set forth certain facts, covenants, representations, and expectations relating to the use of City Lease Agreement proceeds and the property financed or refinanced with those proceeds and the Investment of the City Lease Agreement proceeds and of certain other related money, in order to establish and maintain the exclusion of the Interest Component of Base Rentals on the City Lease Agreement from gross income for federal income tax purposes.

4. The City adopted a Post-Issuance Compliance Policy for Tax-Exempt and Tax-Advantaged Obligations and Continuing Disclosure on July 27, 2019 (the “Tax Compliance Procedure”), for the purpose of setting out general procedures for the City to continuously monitor and comply with the federal income tax requirements set out in the Code and the Regulations.

5. This Tax Certificate is entered into as required by the Tax Compliance Procedure to set out specific tax compliance procedures applicable to the City Lease Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements set forth in this Tax Certificate, the represents, covenants and agrees as follows:

ARTICLE DEFINITIONS

Section 1.1. Definitions of Words and Terms. Except as otherwise provided in this Tax Certificate or unless the context otherwise requires, capitalized words and terms used in this Tax Certificate have the same meanings as set forth in the City Lease Agreement, and certain other words and phrases have the meanings assigned in Code §§ 103, 141-150 and the Regulations. The following words and terms used in this Tax Certificate have the following meanings:

“Annual Compliance Checklist” means a checklist for the Financed Facility designed to measure compliance with the requirements of this Tax Certificate and the Tax Compliance Procedure after the Issue Date as further described in **Section 4.2** and substantially in the form attached as **Exhibit D**.

“Bona Fide Debt Service Fund” means a fund, which may include City Lease Agreement proceeds, that (a) is used primarily to achieve a proper matching of revenues with Base Rentals within each City Lease Agreement Year; and (b) is depleted at least once each City Lease Agreement Year, except for a reasonable carryover amount not to exceed the greater of (1) the earnings on the fund for the immediately preceding City Lease Agreement Year, or (2) one-twelfth of the Base Rentals on the City Lease Agreement for the immediately preceding City Lease Agreement Year.

“City Lease Agreement Year” means each one-year period (or shorter period for the first City Lease Agreement Year) ending December 31, or another one-year period selected by the City.

“City” means the City of Yankton, South Dakota and its successors and assigns, or any body, agency or instrumentality of the State of South Dakota succeeding to or charged with the powers, duties and functions of the City.

“City Base Rentals” means the City Base Rentals payable by the City pursuant to the City Lease Agreement, consisting of a Principal Component and Interest Component.

“City Ground Lease” means the City Ground Lease dated as of September 26, 2019.

“City Lease Agreement” or **“Lease Agreement”** means the Lease Agreement dated as of September 26, 2019 between the Lessor and the City, as the same may be amended from time to time.

“Code” means the Internal Revenue Code of 1986, as amended.

“Compliance Officer” means the person named in the Tax Compliance Procedure.

“Computation Date” means each date on which arbitrage rebate for the City Lease Agreement is computed.

The City may treat any date as a Computation Date, subject to the following limits:

- (a) the first rebate installment payment must be made for a Computation Date not later than 5 years after the Delivery Date;
- (b) each subsequent rebate installment payment must be made for a Computation Date not later than five years after the previous Computation Date for which an installment payment was made; and
- (c) the date the City Lease Agreement is terminated is the final Computation Date.

The City selects September 26, 2024, as the first Computation Date but reserves the right to select a different date consistent with the Regulations.

“Construction Account” means the Construction Account established under the City Lease Agreement.

“Delivery Date” means September 26, 2019.

“Final Written Allocation” means the written allocation of expenditures of proceeds of the Lease Agreement prepared by the Bond Compliance Officer and maintained as part of the Tax-Exempt Certificate File. The allocation of the proceeds of the City Lease Agreement is summarized on **Exhibit C**.

“Financed Facility” means any of the property financed or refinanced with the proceeds of the City Lease Agreement as described on **Exhibit C**.

“Gross Proceeds” means (a) sale proceeds (any amounts actually or constructively received by the City from the lease financing, including amounts used to pay underwriting discount or fees, but excluding pre-issuance accrued interest), (b) Investment proceeds (any amounts received from investing sale proceeds, or other Investment proceeds, or transferred proceeds), (c) any amounts held in a sinking fund for the City Lease Agreement, (d) any amounts held in a pledged fund or reserve fund for the City Lease Agreement, (e) any other replacement proceeds and (f) any transferred proceeds.

“Guaranteed Investment Contract” is any Investment with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, including any agreement to supply Investments on two or more future dates (e.g., a forward supply contract).

“Interest Component” means the interest component of City Base Rentals as provided in the City Lease Agreement.

“Investment” means any security, obligation, annuity contract or other investment-type property that is purchased directly with, or otherwise allocated to, Gross Proceeds. This term does not include a tax-exempt bond, except for “specified private activity bonds” as defined in Code § 57(a)(5)(C), but it does include the investment element of most interest rate caps.

“IRS” means the United States Internal Revenue Service.

“Lease Payment Account” means the Lease Payment Account established under the City Lease Agreement.

“Lessor” means Branch Banking and Trust Company, a North Carolina Banking Corporation.

“Management Agreement” means a legal agreement defined in Regulations § 1.141-3(b) as a management, service, or incentive payment contract with an entity that provides services involving all or a portion of any function of the Financed Facility, such as a contract to manage the entire Financed Facility or a portion of the Financed Facility. Contracts for services that are solely incidental to the primary governmental function of the Financed Facility (for example, contracts for janitorial, office equipment repair, billing, or similar services), however, are not treated as Management Agreements.

“Measurement Period” means, with respect to each item of property financed as part of the Financed Facility with proceeds of the City Lease Agreement, the period beginning on the later of (i) the delivery date of the City Lease Agreement or (ii) the date the property was or will be placed in service, and ending on the earlier of (A) the final maturity date of the City Lease Agreement or (B) the expected economic useful life of the property.

“Minor Portion” means \$100,000.

“Net Proceeds” means the sale proceeds of the City Lease Agreement (excluding pre-issuance accrued interest), less any proceeds deposited in a reasonably required reserve or replacement fund, plus all Investment earnings on such sale proceeds.

“Non-Qualified Use” means use of City Lease Agreement proceeds or the Financed Facility in a trade or business carried on by any Non-Qualified User. The rules set out in Regulations § 1.141-3 determine whether City Lease Agreement proceeds or the Financed Facility are “used” in a trade or business. Generally, ownership, a lease, or any other use that grants a Non-Qualified User a special legal right or entitlement with respect to the Financed Facility, will constitute use under Regulations § 1.141-3.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Opinion of Bond Counsel” means the written opinion of Meierhenry Sargent, LLP or other nationally-recognized firm of bond counsel. Unless otherwise specifically noted herein, an Opinion of Bond Counsel must conclude that the action or proposed action or the failure to act or proposed failure to act for which the opinion is required will not adversely affect the exclusion

of the Interest Component from gross income for federal income tax purposes.

“Post-Issuance Tax Requirements” means those requirements related to the use of proceeds of the City Lease Agreement, the use of the Financed Facility and the investment of Gross Proceeds after the Delivery Date of the City Lease Agreement.

“Principal Component” means the principal component of City Base Rentals as provided for by the City Lease Agreement.

“Qualified Use Agreement” means any of the following:

(1) A lease or other short-term use by members of the general public who occupy the Financed Facility on a short-term basis in the ordinary course of the City’s governmental purposes.

(2) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facility for a period up to 200 days in length pursuant to an arrangement whereby (a) the use of the Financed Facility under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business and (b) the compensation for the use is determined based on generally applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed. Any Qualified User or Non-Qualified User using all or any portion of the Financed Facility under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(3) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facility for a period up to 100 days in length pursuant to arrangements whereby (a) the use of the property by the person would be general public use but for the fact that generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business, (b) the compensation for the use under the arrangement is determined based on applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed, and (c) the Financed Facility was not constructed for a principal purpose of providing the property for use by that Qualified User or Non-Qualified User. Any Qualified User or Non-Qualified User using all or any portion of the Financed Facility under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(4) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facility for a period up to 50 days in length pursuant to a negotiated arm’s-length arrangement at fair market value so long as the Financed Facility was not constructed for a principal purpose of providing the property for use by that person.

“Qualified User” means a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it

does not include the United States or any agency or instrumentality of the United States.

“Rebate Account” means the rebate account established under State law to pay rebate on the City Lease Agreement.

“Regulations” means all Regulations issued by the U.S. Treasury Department to implement the provisions of Code §§ 103 and 141 through 150 and applicable to the City Lease Agreement.

“Tax Certificate” means this Tax Compliance Agreement as it may from time to time be amended and supplemented in accordance with its terms.

“Tax Compliance Procedure” means the City’s Tax-Exempt Financing Compliance Policy and Procedure established July 22, 2019.

“Tax-Exempt Certificate File” means documents and records for the City Lease Agreement maintained by the Compliance Officer pursuant to the Tax Compliance Procedure. This term is synonymous with the term “Tax Compliance File” as used under the Tax Compliance Procedure.

“Transcript” means the Transcript of Proceedings relating to the authorization and delivery of the City Lease Agreement.

“Yield” means the yield on the City Lease Agreement, computed under Regulations § 1.148-4, and the yield on an Investment, computed under Regulations § 1.148-5.

ARTICLE II GENERAL REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of the City. The City represents and covenants as follows:

(a) *Organization and Authority.* The City (1) is a political subdivision organized and existing under the laws of the State of South Dakota, and (2) has lawful power and authority to deliver the City Lease Agreement for the purposes set forth in the , to enter into, execute and deliver City Lease Agreement, and this Tax Certificate and to carry out its obligations under this Tax Certificate and under such documents, and (3) by all necessary action has been duly authorized to execute and deliver the City Lease Agreement, and this Tax Certificate, acting by and through its duly authorized officials.

(b) *Tax-Exempt Status of City Lease Agreement–General Representation and Covenants.* In order to maintain the exclusion of the Interest Component from gross income for federal income tax purposes, the City (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code; (2) will not use or invest, or permit the use or Investment of, any proceeds, other money held under

the City Lease Agreement, or other funds of the City, in a manner that would violate applicable provisions of the Code; and (3) will not use, or permit the use of, any portion of the Financed Facility in a manner that would cause the City Lease Agreement to become a “private activity bond” as defined in Code § 141.

(c) *Governmental Obligations–Use of Proceeds.* Throughout the Measurement Period, all of the Financed Facility has been and is expected to be owned by the City or another Qualified User. Throughout the Measurement Period, no portion of the Financed Facility has been or is expected to be used in a Non-Qualified Use. Throughout the Measurement Period, the City will not permit any Non-Qualified Use of the Financed Facility without first obtaining an Opinion of Bond Counsel.

(d) *Governmental Obligations–Private Security or Payment.* As of the Delivery Date, the City expects that none of the Principal Component or Interest Component on the City Lease Agreement will be, and the payment of principal of and interest on the Refunded Obligations has not been (under the terms of the City Lease Agreement or any underlying arrangement), directly or indirectly:

- (1) secured by (i) any interest in property used or to be used for a Non-Qualified Use, or (ii) any interest in payments in respect of such property; or
- (2) derived from payments (whether or not such payments are made to the City) in respect of property, or borrowed money, used or to be used for a Non-Qualified Use.

For purposes of the foregoing, taxes of general application, including payments in lieu of taxes, are not treated as private payments or as private security. The City will not permit any private security or payment with respect to the City Lease Agreement, other than as described above, without first obtaining an Opinion of Bond Counsel.

(e) *No Private Loan.* Not more than 5% of the Net Proceeds of the City Lease Agreement will be loaned directly or indirectly to any Non-Qualified User.

(f) *Management Agreements.* As of the Delivery Date, the City has no Management Agreements with Non-Qualified Users. During the Measurement Period, the City has not and will not enter into or renew any Management Agreement with any Non-Qualified User without first obtaining an Opinion of Bond Counsel.

(g) *Leases.* As of the Delivery Date, the City has not entered into any leases of any portion of the Financed Facility other than Qualified Use Agreements. During the Measurement Period, the City has not and will not enter into or renew any lease or similar agreement or arrangement other than the agreements listed in this paragraph or a Qualified Use Agreement without first obtaining an Opinion of Bond Counsel.

(h) *General Allocation and Accounting.* The Public Safety Project and the County Renovation Project (herein the “Project”) were financed in part with proceeds of the Lease Agreement and in part with other funds of the City. The portion of the Project financed with proceeds of the City Lease Agreement is referred to herein as the “Financed Facility.” Attached as **Exhibit C** is a schedule showing the Project financed in part with proceeds of the City Lease Agreement. For purposes of determining Non-Qualified Use, if any, of the Financed Facility during the Measurement Period, the City will allocate Non-Qualified Use first to the portion of the Project financed with other funds of the City, and second to the Financed Facility. During the Measurement Period, the City will, on an annual basis, determine the extent to which Non-Qualified Use exceeds the portion of the Project financed with other funds of the City and determine the extent to which the proceeds of the City Lease Agreement and the Financed Facility are used in a Non-Qualified Use.

(i) *Limit on Maturity of City Lease Agreement.* A list of the assets included in the Financed Facility and a computation of the “average reasonably expected economic life” is attached to this Tax Certificate as **Exhibit C**. Based on this computation, the “average maturity” of the City Lease Agreement, as computed by Bond Counsel, does not exceed 120% of the average reasonably expected economic life of the Financed Facility.

(j) *Expenditure of Proceeds – Reimbursement.* No portion of the Net Proceeds of the Lease Agreement was used to reimburse an expenditure paid by the City more than 60 days prior to the date the respective authorizing ordinances were adopted. A summary of the City’s allocation of the proceeds is set forth on **Exhibit C**.

(k) *Registration Requirement.* The City Lease Agreement will be delivered and held in registered form within the meaning of Code § 149(a).

(l) *No Federal Guarantee.* The City will not take any action or permit any action to be taken that would cause the City Lease Agreement to be “federally guaranteed” within the meaning of Code § 149(b).

(m) *IRS Form 8038-G.* Bond Counsel will prepare Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) based on the representations and covenants of the City contained in this Tax Certificate or otherwise provided by the City. Bond Counsel will sign the return as a paid preparer following completion and will then deliver copies to the City for execution and for the City’s records. The City agrees to timely execute and return to Bond Counsel the execution copy of Form 8038-G for filing with the IRS. A copy of the “as-filed” copy along with proof of filing will be included as **Exhibit B**.

(n) *Not Hedge Bonds.* At least 85% of the net sale proceeds (the sale proceeds of the Lease Agreement less any sale proceeds invested in a reserve fund) of the Lease Agreement were used to carry out the governmental purpose of the Lease Agreement within

three years after the Delivery Date of the Lease Agreement, and not more than 50% of the proceeds of the Lease Agreement was or will be invested in Investments having a substantially guaranteed Yield for four years or more.

(o) *Compliance with Future Tax Requirements.* The City understands that the Code and the Regulations may impose new or different restrictions and requirements on the City in the future. The City will comply with such future restrictions that are necessary to maintain the exclusion of the Interest Component from gross income for federal income tax purposes.

(p) *Single Issue; No Other Issues.* The City Lease Agreement constitutes a single “issue” under Regulations § 1.150-1(c). No other debt obligations of the City (1) are being sold within 15 days of the sale of the City Lease Agreement, (2) are being sold under the same plan of financing as the City Lease Agreement, and (3) are expected to be paid from substantially the same source of funds as the City Lease Agreement (disregarding guarantees from unrelated parties, such as bond insurance).

(q) *No Interest Rate Swap.* As of the Delivery Date, the City has not entered into an interest rate swap agreement or any other similar arrangement designed to modify its interest rate risk with respect to the City Lease Agreement or the Refunded Obligations. The City will not enter into any such arrangement in the future without obtaining an Opinion of Bond Counsel.

(r) *No Guaranteed Investment Contract.* As of the Delivery Date, the City does not expect to enter into a Guaranteed Investment Contract for any Gross Proceeds of the City Lease Agreement. The City will be responsible for complying with **Section 4.4(d)** if it decides to enter into a Guaranteed Investment Contract at a later date.

ARTICLE III ARBITRAGE CERTIFICATIONS AND COVENANTS

Section 3.1. General. The purpose of this **Article III** is to certify, under Regulations § 1.148-2(b), the City’s expectations as to the sources, uses and investment of Lease Agreement proceeds and other money, in order to support the City’s conclusion that the City Lease Agreement are not arbitrage bonds. The person executing this Tax Certificate on behalf of the City is an officer of the City responsible for delivering the City Lease Agreement.

Section 3.2. Reasonable Expectations. The facts, estimates and expectations set forth in this **Article III** are based upon and in reliance upon the City’s understanding of the documents and certificates that comprise the Transcript, and the representations, covenants and certifications of the parties contained therein. To the City’s knowledge, the facts and estimates set forth in this Tax Certificate are accurate, and the expectations of the City set forth in this Tax Certificate are reasonable. The City has no knowledge that would cause it to believe that the representations, warranties and certifications described in this Tax Certificate are unreasonable or inaccurate or may not be relied upon.

Section 3.3. Purpose of Financing. The City Lease Agreement is being executed for the purpose of providing funds to fund the Financed Facility and pay costs of issuance.

Section 3.4. Funds and Subaccounts. The following funds and subaccounts have been established under the Lease:

- Construction Account.
- Lease Payment Account

Section 3.5. Amount and Use of Proceeds and Other Money.

(a) *Amount of Proceeds.* \$14,000,000 of total proceeds will be received by the City from the sale of the Lease Agreement:

(b) *Use of Proceeds.* The proceeds are expected to be allocated to expenditures as follows:

- (1) \$13,887,000 of proceeds will be deposited in the Construction Account and used to pay the costs related to the delivery of the City Lease Agreement. \$113,000 shall be used for costs of issuance.

(c) *Use of Other Money.* Amounts held by the City in accounts established for the City Lease Agreement and other money contributed by the City are expected to be allocated to expenditures as follows:

Estimated Cost of Project	\$18,000,000
 Source of Funds	
City Contribution-Public and Business Uses	\$2,000,000
Private Donations- Public and Business Uses	\$2,000,000
Lease Proceeds-Public Uses	\$14,000,000

The City Lease Agreement shall be applied solely to public uses. Any private business use shall be funded by the City’s contribution or private donations.

Section 3.6. No Multipurpose Issue. The City Lease Agreement is not a multipurpose issue and no allocation will be made to multiple purposes.

Section 3.7. Purpose Investment Yield. The proceeds of the City Lease Agreement will not be used to purchase an Investment for the purpose of carrying out the governmental purpose of the financing.

Section 3.8. Purchase Price and Yield.

(a) *Purchase Prices.* The Purchaser has certified that it has purchased all of the Lease Agreement at fair market value without regard to any other products or services offered to the City, if any, as principal for its own account as an investment and has not acted as agent for any person or entity. As of the Delivery Date, the Purchaser has not sold and has no present intention to sell or participate the Lease Agreement or any portion thereof to any person. The aggregate initial purchase price of the City Lease Agreement is \$14,000,000, without accrued interest.

(b) *Yield.* Based on the offering prices, the Yield on the City Lease Agreement is 2.9093%, as computed by Bond Counsel and shown on **Exhibit A** attached hereto. The City has not entered into an interest rate swap agreement with respect to any portion of the proceeds of the City Lease Agreement.

Section 3.9. Miscellaneous Arbitrage Matters.

(a) *No Abusive Arbitrage Device.* The City Lease Agreement is not and will not be part of a transaction or series of transactions that has the effect of (1) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (2) overburdening the tax-exempt bond market.

(b) *No Over-Issuance.* The sale proceeds of the Lease Agreement, together with expected Investment earnings thereon and other money contributed by the City, do not exceed the cost of the governmental purpose of the City Lease Agreement as described above.

Section 3.10. Conclusion. On the basis of the facts, estimates and circumstances set forth in this Tax Certificate, the City does not expect that the Lease Agreement proceeds will be used in a manner that would cause any the City Lease Agreement to be an “arbitrage bond” within the meaning of Code § 148 and the Regulations.

**ARTICLE IV
POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES**

Section 4.1. General.

(a) *Purpose of Article.* The purpose of this Article is to supplement the Tax Compliance Procedure and to set out specific policies and procedures governing compliance with the federal income tax requirements that apply after the Lease Agreement is executed. The City recognizes that Interest Component of the Base Rentals due with respect to the Lease Agreement will remain excludable from gross income only if the Post-Issuance Tax Requirements are followed after the Delivery Date. The City further acknowledges that written evidence substantiating compliance with the Post-Issuance Tax Requirements must be retained in order to permit the Lease Agreement to be a tax-exempt obligation and substantiate the position that the Interest Component is exempt from gross income in the event of an audit of the City Lease Agreement by the IRS.

(b) *Written Policies and Procedures of the City.* The City intends for the Tax Compliance Procedure, as supplemented by this Tax Certificate, to be its primary written policies and procedures for monitoring compliance with the Post-Issuance Tax Requirements for the Lease Agreement and to supplement any other formal policies and procedures related to tax compliance that the City has established. The provisions of this Tax Certificate are intended to be consistent with the Tax Compliance Procedure. In the event of any inconsistency between the Tax Compliance Procedure and this Tax Certificate, the terms of this Tax Certificate will govern.

(c) *Compliance Officer.* The City, when necessary to fulfill its Post-Issuance Tax Requirements will, through its Compliance Officer, sign Form 8038-T in connection with the payment of arbitrage rebate or Yield reduction payments, participate in any federal income tax audit of the City Lease Agreement or related proceedings under a voluntary compliance agreement procedures (VCAP) or undertake a remedial action procedure pursuant to Regulations § 1.141-12. In each case, all costs and expenses incurred by the City shall be treated as a reasonable cost of administering the City Lease Agreement and the City shall be entitled to reimbursement and recovery of its costs to the same extent as provided in State law.

Section 4.2. Record Keeping; Use of Proceeds and Use of Financed Facility.

(a) *Record Keeping.* The Compliance Officer will maintain the Tax-Exempt Certificate File for the Lease Agreement in accordance with the Tax Compliance Procedure. Unless otherwise specifically instructed in a written Opinion of Bond Counsel or to the extent otherwise provided in this Tax Certificate, the Compliance Officer shall retain records related to the Post-Issuance Tax Requirements until 3 years following the final lease payment of Lease Agreement. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (1) ensure an accurate and complete transfer of the hardcopy records that indexes, stores, preserves,

retrieves and reproduces the electronic records, (2) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (3) exhibit a high degree of legibility and readability both electronically and in hardcopy, (4) provide support for other books and records of the City and (5) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the City's premises.

(b) *Accounting and Allocation of Proceeds to Expenditures.* Proceeds of the Lease Agreement and certain other money will be used as described in **Section 3.5**. The Compliance Officer will maintain accounting records showing the investment and expenditure of this money as part of the Tax- Exempt Certificate File. The Compliance Officer will prepare written records substantiating the allocation of proceeds of the Lease Agreement to the Financed Facility. The allocation of the proceeds of the Lease Agreement is summarized on **Exhibit C**.

(c) *Annual Compliance Checklist.* Attached as **Exhibit D** is a form of Annual Compliance Checklist for the City Lease Agreement. The Compliance Officer will prepare and complete an Annual Compliance Checklist for the Financed Facility at least annually in accordance with the Tax Compliance Procedure. If the Annual Compliance Checklist identifies a deficiency in compliance with the requirements of this Tax Certificate, the Compliance Officer will take the actions identified in an Opinion of Bond Counsel or the Tax Compliance Procedure to correct any deficiency.

(d) *Opinion of Bond Counsel.* The Compliance Officer is responsible for obtaining and delivering to the City and the Lessor any Opinion of Bond Counsel required under the provisions of this Tax Certificate, including any Opinion of Bond Counsel required by this Tax Certificate or the Annual Compliance Checklist.

Section 4.3 Temporary Periods/Yield Restriction.

Except as described below, the City will not invest Gross Proceeds at a Yield greater than the Yield on the Lease:

(a) *Lease Payment Account.* To the extent that the Lease Payment Fund qualifies as a Bona Fide Debt Service Fund, money in such account may be invested without Yield restriction for 13 months after the date of deposit. Earnings on such amounts may be invested without Yield restriction for one year after the date of receipt of such earnings.

(b) *Construction Account.* Amounts held in the Construction Account may be invested without Yield restriction for 13 months.

(c) *Rebate Fund.* Money other than sale proceeds or Investment proceeds of the City Lease Agreement on deposit in the Rebate Account may be invested without Yield restrictions.

(d) *Minor Portion.* In addition to the amounts described above, Gross Proceeds not exceeding the Minor Portion may be invested without Yield restriction.

Section 4.4. Procedures for Establishing Fair Market Value.

(a) *General.* No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's-length transaction. Fair market value will be determined in accordance with Regulations § 1.148-5.

(b) *Established Securities Market.* Except for Investments purchased for a Yield-restricted defeasance escrow, if an Investment is purchased or sold in an arm's-length transaction on an established securities market (within the meaning of Code § 1273), the purchase or sale price constitutes the fair market value. Where there is no established securities market for an Investment, market value must be established using one of the paragraphs below. The fair market value of Investments purchased for a Yield-restricted defeasance escrow must be determined in a bona fide solicitation for bids that complies with Regulations § 1.148-5.

(c) *Certificates of Deposit.* The purchase price of a certificate of deposit (a "CD") is treated as its fair market value on the purchase date if (1) the CD has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal, (2) the Yield on the CD is not less than the Yield on reasonably comparable direct obligations of the United States, and (3) the Yield is not less than the highest Yield published or posted by the CD issuer to be currently available on reasonably comparable CDs offered to the public.

(d) *Guaranteed Investment Contracts.* The City is applying Regulations § 1.148-5(d)(6)(iii)(A) (relating to electronic bidding of Guaranteed Investment Contracts) to the City Lease Agreement. The purchase price of a Guaranteed Investment Contract is treated as its fair market value on the purchase date if all of the following requirements are met:

(1) Bona Fide Solicitation for Bids. The City makes a bona fide solicitation for the Guaranteed Investment Contract, using the following procedures:

(A) The bid specifications are in writing and are timely forwarded to potential providers.

(B) The bid specifications include all "material" terms of the bid. A term is material if it may directly or indirectly affect the Yield or the cost of the Guaranteed Investment Contract.

(C) The bid specifications include a statement notifying potential providers that submission of a bid is a representation (i) that the potential provider did not consult with any other potential provider about its bid, (ii) that the bid was determined without regard to any other formal or informal

agreement that the potential provider has with the City, or any other person (whether or not in connection with the delivery of obligations), and (iii) that the bid is not being submitted solely as a courtesy to the City, or any other person, for purposes of satisfying the requirements of the Regulations.

(D) The terms of the bid specifications are “commercially reasonable.” A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the Yield of the Guaranteed Investment Contract.

(E) The terms of the solicitation take into account the City’s reasonably expected deposit and draw-down schedule for the amounts to be invested.

(F) All potential providers have an equal opportunity to bid. For example, no potential provider is given the opportunity to review other bids (i.e., a last look) before providing a bid.

(G) At least three “reasonably competitive providers” are solicited for bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of Investments being purchased.

(2) Bids Received. The bids received must meet all of the following requirements:

(A) At least three bids are received from providers that were solicited as described above and that do not have a “material financial interest” in the issue. For this purpose, (i) a lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the Delivery Date of the issue, (ii) any entity acting as a financial advisor with respect to the purchase of the Guaranteed Investment Contract at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue, and (iii) a provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.

(B) At least one of the three bids received is from a reasonably competitive provider, as defined above.

(C) If an agent or broker is used to conduct the bidding process, the agent or broker did not bid to provide the Guaranteed Investment Contract.

(3) Winning Bid. The winning bid is the highest Yielding bona fide bid

(determined net of any broker's fees).

(4) Fees Paid. The obligor on the Guaranteed Investment Contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the Guaranteed Investment Contract.

(5) Records. The City retain the following records with the certificate documents until three years after the last outstanding Certificate is redeemed:

(A) A copy of the Guaranteed Investment Contract.

(B) The receipt or other record of the amount actually paid for the Guaranteed Investment Contract, including a record of any administrative costs paid by the City, and the certification as to fees paid, described in paragraph (d)(4) above.

(C) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results.

(D) The bid solicitation form and, if the terms of Guaranteed Investment Contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation.

(e) *Other Investments*. If an Investment is not described above, the fair market value may be established through a competitive bidding process, as follows:

(1) at least three bids on the Investment must be received from persons with no financial interest in the City Lease Agreement (e.g., as underwriters or brokers); and

(2) the Yield on the Investment must be equal to or greater than the Yield offered under the highest bid.

Section 4.6. Filing Requirements. The City will file or cause to be filed with the IRS such reports or other documents as are required by the Code in accordance with an Opinion of Bond Counsel.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 5.1. Term of Tax Certificate.

This Tax Certificate will be effective concurrently with the delivery of the City Lease Agreement and will continue in force and effect until the City Base Rentals have been fully paid and the City Lease Agreement are canceled; provided that, the provisions of **Article IV**

of this Tax Certificate regarding payment of arbitrage rebate and all related penalties and interest will remain in effect until all such amounts are paid to the United States.

Section 5.2. Amendments.

This Tax Certificate may be amended from time to time by the parties to this Tax Certificate without notice to or the consent of any of the Registered Owners of the City Lease Agreement, but only if such amendment is in writing and is accompanied by an Opinion of Bond Counsel to the effect that, under then existing law, assuming compliance with this Tax Certificate as so amended such amendment will not cause the Interest Component to be included in gross income for federal income tax purposes. No such amendment will become effective until the City and the Lessor receive this Opinion of Bond Counsel.

Section 5.3. Opinion of Bond Counsel.

The City may deviate from the provisions of this Tax Certificate if furnished with an Opinion of Bond Counsel addressed to each of them to the effect that the proposed deviation will not adversely affect the exclusion of the Interest Component from gross income for federal income tax purposes. The City will comply with any further or different instructions provided in an Opinion of Bond Counsel to the effect that the further or different instructions need to be complied with in order to maintain the validity of the City Lease Agreement or the exclusion from gross income of the Interest Component.

Section 5.4. Reliance.

In delivering this Tax Certificate, the City is making only those certifications, representations and agreements as are specifically attributed to them in this Tax Certificate. The City is not aware of any facts or circumstances that would cause it to question the accuracy of the facts, circumstances, estimates or expectations of any other party providing certifications as part of this Tax Certificate and, to the best of their knowledge, those facts, circumstances, estimates and expectations are reasonable. The parties to this Tax Certificate understand that its certifications will be relied upon by the law firm of Meierhenry Sargent, LLP, in rendering its opinion as to the validity of the Lease Agreement and the exclusion from federal gross income of the Interest Component.

Section 5.5. Severability.

If any provision in this Tax Certificate or the Lease Agreement is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

Section 5.6. Benefit of Agreement.

This Tax Certificate is binding upon the City their respective successors and assigns, and inures to the benefit of the parties to this Tax Certificate and the owners of the Lease Agreement. Nothing in this Tax Certificate or the Lease Agreement, express or implied, gives to any person, other than the parties to this Tax Certificate, and their successors and assigns, any benefit or any legal or equitable right, remedy or claim under this Tax Certificate.

Section 5.7. Default; Breach and Enforcement.

Any misrepresentation of a party contained herein or any breach of a covenant or agreement contained in this Tax Certificate may be pursued by the owners of the Lease Agreement or the other party or parties to this Tax Certificate pursuant to the terms of the Lease Agreement or any other document that references this Tax Certificate and gives remedies for a misrepresentation or breach thereof.

Section 5.8. Execution in Counterparts.

This Tax Certificate may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute the same instrument.

Section 5.9. Governing Law.

This Tax Certificate will be governed by and construed in accordance with the laws of the State of South Dakota.

Section 5.10. Electronic Transaction.

The parties agree that the transaction described in this Tax Certificate may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

The parties to this Tax Certificate have caused this Tax Certificate to be duly executed by their duly authorized officers as of the date first stated above.

CITY OF YANKTON, SOUTH DAKOTA

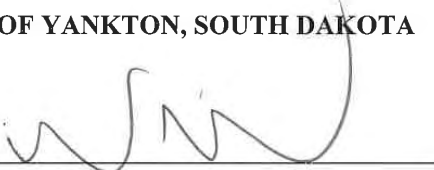
By: 
Title: Mayor

EXHIBIT A
DEBT SERVICE SCHEDULE AND PROOF OF YIELD

Date	Principal Component	Interest Component	Lease Payment
09/25/2019	-	-	
06/15/2020	172,869.33	294,233.33	467,102.66
12/15/2020	265,917.91	201,184.75	467,102.66
06/15/2021	269,787.02	197,315.65	467,102.66
12/15/2021	273,712.42	193,390.24	467,102.66
06/15/2022	277,694.93	189,407.73	467,102.66
12/15/2022	281,735.39	185,367.27	467,102.66
06/15/2023	285,834.64	181,268.02	467,102.66
12/15/2023	289,993.54	177,109.12	467,102.66
06/15/2024	294,212.94	172,889.72	467,102.66
12/15/2024	298,493.74	168,608.92	467,102.66
06/15/2025	302,836.83	164,265.84	467,102.66
12/15/2025	307,243.10	159,859.56	467,102.66
06/15/2026	311,713.49	155,389.17	467,102.66
12/15/2026	316,248.92	150,853.74	467,102.66
06/15/2027	320,850.34	146,252.32	467,102.66
12/15/2027	325,518.71	141,583.95	467,102.66
06/15/2028	330,255.01	136,847.65	467,102.66
12/15/2028	335,060.22	132,042.44	467,102.66
06/15/2029	339,935.35	127,167.31	467,102.66
12/15/2029	344,881.41	122,221.25	467,102.66
06/15/2030	349,899.43	117,203.23	467,102.66
12/15/2030	354,990.47	112,112.19	467,102.66
06/15/2031	360,155.58	106,947.08	467,102.66
12/15/2031	365,395.84	101,706.82	467,102.66
06/15/2032	370,712.35	96,390.31	467,102.66
12/15/2032	376,106.22	90,996.44	467,102.66
06/15/2033	381,578.56	85,524.10	467,102.66
12/15/2033	387,130.53	79,972.13	467,102.66
06/15/2034	392,763.28	74,339.38	467,102.66
12/15/2034	398,477.99	68,624.67	467,102.66
06/15/2035	404,275.84	62,826.82	467,102.66
12/15/2035	410,158.06	56,944.61	467,102.66
06/15/2036	416,125.86	50,976.81	467,102.66
12/15/2036	422,180.49	44,922.18	467,102.66
06/15/2037	428,323.21	38,779.45	467,102.66
12/15/2037	434,555.32	32,547.35	467,102.66
06/15/2038	440,878.09	26,224.57	467,102.66
12/15/2038	447,292.87	19,809.79	467,102.66
06/15/2039	453,800.98	13,301.68	467,102.66
12/15/2039	460,403.79	6,698.88	467,102.66
Total	\$14,000,000.00	\$4,684,106.47	\$18,684,106.47

\$14,000,000

City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Sources & Uses

Dated 09/26/2019 | Delivered 09/26/2019

Sources Of Funds

Par Amount of Bonds	\$14,000,000.00
Total Sources	\$14,000,000.00

Uses Of Funds

Costs of Issuance	113,000.00
Net Bond Proceeds	13,887,000.00
Total Uses	\$14,000,000.00

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City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
12/15/2019	-	-	-	-
12/15/2020	439,860.87	2.910%	494,270.49	934,131.36
12/15/2021	543,456.41	2.910%	390,674.95	934,131.36
12/15/2022	559,386.04	2.910%	374,745.32	934,131.36
12/15/2023	575,782.59	2.910%	358,348.77	934,131.36
12/15/2024	592,659.76	2.910%	341,471.60	934,131.36
12/15/2025	610,031.63	2.910%	324,099.73	934,131.36
12/15/2026	627,912.69	2.910%	306,218.67	934,131.36
12/15/2027	646,317.88	2.910%	287,813.48	934,131.36
12/15/2028	665,262.57	2.910%	268,868.81	934,131.38
12/15/2029	684,762.54	2.910%	249,368.83	934,131.37
12/15/2030	704,834.09	2.910%	229,297.27	934,131.36
12/15/2031	725,493.99	2.910%	208,617.38	934,131.37
12/15/2032	746,759.44	2.910%	187,371.92	934,131.36
12/15/2033	768,648.23	2.910%	165,483.13	934,131.36
12/15/2034	791,178.63	2.910%	142,952.73	934,131.36
12/15/2035	814,369.42	2.910%	119,761.95	934,131.37
12/15/2036	838,239.97	2.910%	95,891.39	934,131.36
12/15/2037	862,810.21	2.910%	71,321.15	934,131.36
12/15/2038	888,100.65	2.910%	46,030.71	934,131.36
12/15/2039	914,132.39	2.910%	19,998.97	934,131.36
Total	\$14,000,000.00	-	\$4,682,627.25	\$18,682,627.25

Yield Statistics

Bond Year Dollars	\$160,915.03
Average Life	11.494 Years
Average Coupon	2.9100000%
Net Interest Cost (NIC)	2.9100000%
True Interest Cost (TIC)	2.9093036%
Bond Yield for Arbitrage Purposes	2.9093036%
All Inclusive Cost (AIC)	2.9958828%
IRS Form 8038	
Net Interest Cost	2.9100000%
Weighted Average Maturity	11.494 Years

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Dougherty & Company LLC
Public Finance

\$14,000,000

City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
09/26/2019	-	-	-	-
06/15/2020	173,964.01	2.910%	293,101.67	467,065.68
12/15/2020	265,896.86	2.910%	201,168.82	467,065.68
06/15/2021	269,765.66	2.910%	197,300.02	467,065.68
12/15/2021	273,690.75	2.910%	193,374.93	467,065.68
06/15/2022	277,672.95	2.910%	189,392.73	467,065.68
12/15/2022	281,713.09	2.910%	185,352.59	467,065.68
06/15/2023	285,812.01	2.910%	181,253.67	467,065.68
12/15/2023	289,970.58	2.910%	177,095.10	467,065.68
06/15/2024	294,189.65	2.910%	172,876.03	467,065.68
12/15/2024	298,470.11	2.910%	168,595.57	467,065.68
06/15/2025	302,812.85	2.910%	164,252.83	467,065.68
12/15/2025	307,218.78	2.910%	159,846.90	467,065.68
06/15/2026	311,688.81	2.910%	155,376.87	467,065.68
12/15/2026	316,223.88	2.910%	150,841.80	467,065.68
06/15/2027	320,824.94	2.910%	146,240.74	467,065.68
12/15/2027	325,492.94	2.910%	141,572.74	467,065.68
06/15/2028	330,228.87	2.910%	136,836.82	467,065.69
12/15/2028	335,033.70	2.910%	132,031.99	467,065.69
06/15/2029	339,908.44	2.910%	127,157.25	467,065.69
12/15/2029	344,854.10	2.910%	122,211.58	467,065.68
06/15/2030	349,871.73	2.910%	117,193.95	467,065.68
12/15/2030	354,962.36	2.910%	112,103.32	467,065.68
06/15/2031	360,127.07	2.910%	106,938.61	467,065.68
12/15/2031	365,366.92	2.910%	101,698.77	467,065.69
06/15/2032	370,683.00	2.910%	96,382.68	467,065.68
12/15/2032	376,076.44	2.910%	90,989.24	467,065.68
06/15/2033	381,548.35	2.910%	85,517.33	467,065.68
12/15/2033	387,099.88	2.910%	79,965.80	467,065.68
06/15/2034	392,732.19	2.910%	74,333.49	467,065.68
12/15/2034	398,446.44	2.910%	68,619.24	467,065.68
06/15/2035	404,243.84	2.910%	62,821.85	467,065.69
12/15/2035	410,125.58	2.910%	56,940.10	467,065.68
06/15/2036	416,092.91	2.910%	50,972.77	467,065.68
12/15/2036	422,147.06	2.910%	44,918.62	467,065.68
06/15/2037	428,289.30	2.910%	38,776.38	467,065.68
12/15/2037	434,520.91	2.910%	32,544.77	467,065.68
06/15/2038	440,843.19	2.910%	26,222.49	467,065.68
12/15/2038	447,257.46	2.910%	19,808.22	467,065.68
06/15/2039	453,765.05	2.910%	13,300.63	467,065.68
12/15/2039	460,367.34	2.910%	6,698.34	467,065.68
Total	\$14,000,000.00	-	\$4,682,627.25	\$18,682,627.25

Yield Statistics

Bond Year Dollars	\$160,915.03
Average Life	11.494 Years
Average Coupon	2.9100000%
Net Interest Cost (NIC)	2.9100000%
True Interest Cost (TIC)	2.9093036%
Bond Yield for Arbitrage Purposes	2.9093036%
All Inclusive Cost (AIC)	2.9958828%

IRS Form 8038

Net Interest Cost	2.9100000%
Weighted Average Maturity	11.494 Years

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\$14,000,000

City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	Dollar Price
12/15/2039	Term 1 Coupon	2.910%	2.910%	14,000,000.00	100.000%	14,000,000.00
Total				\$14,000,000.00		\$14,000,000.00

Bid Information

Par Amount of Bonds	\$14,000,000.00
Gross Production	\$14,000,000.00
Bid (100.000%)	14,000,000.00
Total Purchase Price	\$14,000,000.00
Bond Year Dollars	\$160,915.03
Average Life	11.494 Years
Average Coupon	2.910000%
Net Interest Cost (NIC)	2.910000%
True Interest Cost (TIC)	2.9093036%

\$14,000,000

City of Yankton, South Dakota
Certificates of Participation, 2019
Bank Deal - Final Numbers

Detail Costs Of Issuance

Dated 09/26/2019 | Delivered 09/26/2019

COSTS OF ISSUANCE DETAIL

Placement Agent/Bank Fee	\$70,000.00
Bond Counsel	\$15,000.00
Bank Counsel	\$7,500.00
Rating Agency Fee	\$20,500.00
TOTAL	\$113,000.00

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Dougherty & Company LLC
Public Finance

EXHIBIT B

IRS FORM 8038-G

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name City of Yankton, South Dakota		2 Issuer's employer identification number (EIN) 46-6000567
3a Name of person (other than Issuer) with whom the IRS may communicate about this return (see instructions) Todd Meierhenry		3b Telephone number of other person shown on 3a 605-336-3075
4 Number and street (or P.O. box if mail is not delivered to street address) 315 S. Phillips Avenue	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Sioux Falls, SD 57104-6318		7 Date of issue 09/25/2019
8 Name of issue Lease Purchase		9 CUSIP number NONE
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Al Viereck, Finance Officer		10b Telephone number of officer or other employee shown on 10a (605) 668-5241

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.		
11 Education		
12 Health and hospital		
13 Transportation		
14 Public safety		
15 Environment (including sewage bonds)		
16 Housing		
17 Utilities		
18 Other. Describe ► Aquatics Center	14,000,000	00
19 If obligations are TANs or RANs, check only box 19a		<input type="checkbox"/>
If obligations are BANs, check only box 19b		<input type="checkbox"/>
20 If obligations are in the form of a lease or installment sale, check box		<input type="checkbox"/>

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	12/15/2039	\$ 14,000,000	\$ 14,000,000	11.4980 years	2.9093 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)					
22	Proceeds used for accrued interest				
23	Issue price of entire issue (enter amount from line 21, column (b))			14,000,000	00
24	Proceeds used for bond issuance costs (including underwriters' discount)			113,000	00
25	Proceeds used for credit enhancement				
26	Proceeds allocated to reasonably required reserve or replacement fund				
27	Proceeds used to currently refund prior issues				
28	Proceeds used to advance refund prior issues				
29	Total (add lines 24 through 28)			113,000	00
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			13,887,000	00

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.	
31	Enter the remaining weighted average maturity of the bonds to be currently refunded <input type="checkbox"/> _____ years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded <input type="checkbox"/> _____ years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) <input type="checkbox"/> _____
34	Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a	
	b Enter the final maturity date of the GIC ▶ _____		
	c Enter the name of the GIC provider ▶ _____		
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37	
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ <input type="checkbox"/> and enter the following information:		
	b Enter the date of the master pool obligation ▶ _____		
	c Enter the EIN of the issuer of the master pool obligation ▶ _____		
	d Enter the name of the issuer of the master pool obligation ▶ _____		
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▶ <input type="checkbox"/>		
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ <input type="checkbox"/>		
41a	If the issuer has identified a hedge, check here ▶ <input type="checkbox"/> and enter the following information:		
	b Name of hedge provider ▶ _____		
	c Type of hedge ▶ _____		
	d Term of hedge ▶ _____		
42	If the issuer has superintegrated the hedge, check box ▶ <input type="checkbox"/>		
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ▶ <input checked="" type="checkbox"/>		
44	If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ <input checked="" type="checkbox"/>		
45a	If some portion of the proceeds was used to reimburse expenditures, check here ▶ <input type="checkbox"/> and enter the amount of reimbursement ▶ _____		
	b Enter the date the official intent was adopted ▶ _____		

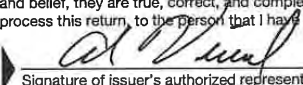
Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
			AI Viereck, Finance Officer	
Paid Preparer Use Only	Signature of issuer's authorized representative		Date	
	Type or print name and title			
	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Todd Meierhenry			P01211995
	Firm's name ▶ Meierhenry Sargent LLP	Firm's EIN ▶	46 0409359	
	Firm's address ▶ 315 S. Phillips Avenue, Sioux Falls, SD 57104	Phone no.	605-336-3075	

EXHIBIT C

DESCRIPTION OF PROPERTY COMPRISING THE FINANCED FACILITY

The acquisition, construction, installation, remodeling, and equipping of a new aquatics center at Fantle Memorial Park on land owned by the City of Yankton, South Dakota located on that real property upon which the Project will be made located at 2020 Douglas Avenue and legal described as the North West Quarter (NW¹/₄) of the South East Quarter (SE¹/₄) of the North West Quarter (NW¹/₄), Section Seven (S7), Township ninety-three North (T93N), Range fifty-five West (55W) of the fifth Principal Meridian, City of Yankton, Yankton County, South Dakota.

EXHIBIT D

ANNUAL COMPLIANCE CHECKLIST

Name of tax-exempt issue financing Financed Facility:	Lease Agreement
Delivery Date of Lease:	September 26, 2019
Placed in service date of Financed Facility:	
Name of Compliance Officer (Finance Manager):	Al Verick, Finance Officer
Period covered by request ("Annual Period"):	

OWNERSHIP

1. Was the entire Financed Facility owned by the City during the entire Annual Period?
 YES NO
 - a. If answer above was "No," was advice of Bond Counsel obtained prior to the transfer?
 N/A YES NO
 - i. If "Yes," include a description of the advice in the Tax-Exempt City Lease Agreement File.
 - ii. If "No," contact Bond Counsel and include description of resolution in the Tax-Exempt City Lease Agreement File.

LEASES & OTHER RIGHTS TO POSSESSION

2. Other than the City Ground Lease and the City Lease Agreement, during the Annual Period, was any part of the Financed Facility leased at any time pursuant to a lease or similar agreement for more than 50 days? YES NO
 - a. If answer above was "Yes," was advice of Bond Counsel obtained prior to entering into the lease or other arrangement? N/A YES NO
 - i. If "Yes," include a description of the advice in the Tax-Exempt City Lease Agreement File.
 - ii. If "No," contact Bond Counsel and include description of resolution in the Tax-Exempt City Lease Agreement File.

MANAGEMENT OR SERVICE AGREEMENTS

3. During the Annual Period, has the management of all or any part of the operations of the Financed Facility (e.g., cafeteria, garages, etc.) been assumed by or transferred to another entity? YES NO
 - a. If answer above was "Yes," was advice of Bond Counsel obtained prior to entering into the management agreement? N/A YES NO
 - i. If "Yes," include a description of the advice in the Tax-Exempt City Lease

Agreement File.

- ii. If "No," contact Bond Counsel and include description of resolution in the Tax-Exempt City Lease Agreement File.

OTHER USE

- 4. Was any other agreement entered into with an individual or entity that grants special legal rights to the Financed Facility (e.g., agreements with the State of South Dakota or any of its agencies or political subdivisions, the federal government (i.e., the U.S. Marshal Service, Homeland Security, FBI, etc.) or others allowing said parties to house prisoners at or otherwise use the Financed Facility)? YES NO
 - a. If answer above was "Yes," was advice of Bond Counsel obtained prior to entering into the agreement? N/A YES NO
 - i. If "Yes," include a description of the advice in the Tax-Exempt City Lease Agreement File.
 - ii. If "No," contact Bond Counsel and include description of resolution in the Tax-Exempt City Lease Agreement File. YES NO

ARBITRAGE & REBATE

- 5. Were any proceeds of the City Lease Agreement on deposit in the Construction Account 13 months after the Issue Date? YES NO
- 6. Were any sale proceeds of the Bonds deposited in the Prepayment Fund **NOT** invested and spent in accordance with the Tax Compliance Agreement? YES NO
- 7. Was the balance in the Lease Payment Fund **NOT** reduced to zero at some point during the annual period? YES NO
- 8. Other than the Lease Payment Account, did the City establish any sinking fund for the Bonds? YES NO
 - a. If the answer to any of these questions is "Yes", contact Bond Counsel and incorporate report or include description of resolution in the Tax-Exempt Lease File.

Compliance Officer: _____

Date Completed: _____

Form 8038-G

CERTIFICATE OF MAILING INFORMATION RETURN

\$14,000,000

**CITY OF YANKTON
YANKTON COUNTY, SOUTH DAKOTA**

**LEASE AGREEMENT BETWEEN BRANCH BANKING AND TRUST
COMPANY AND THE CITY OF YANKTON,
SOUTH DAKOTA**

I, Todd Meierhenry, hereby state and certify as follows:

That for and on behalf of City of Yankton, I caused to be mailed by first class mail, postage prepaid, on the date hereof, an Information Return for Tax-Exempt Government Obligations (Form 8038-G) to the Department of Treasury, Internal Revenue Service Center, Ogden, Utah 84201, a copy of which is hereunto attached.

Dated this 3rd day October 2019.

By _____



Its Bond Counsel

On behalf of City of Yankton

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name City of Yankton, South Dakota		2 Issuer's employer identification number (EIN) 46-6000567
3a Name of person (other than Issuer) with whom the IRS may communicate about this return (see instructions) Todd Meierhenry		3b Telephone number of other person shown on 3a 605-336-3075
4 Number and street (or P.O. box if mail is not delivered to street address) 315 S. Phillips Avenue	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Sioux Falls, SD 57104-6318		7 Date of issue 09/25/2019
8 Name of issue Lease Purchase		9 CUSIP number NONE
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Al Viereck, Finance Officer		10b Telephone number of officer or other employee shown on 10a (605) 668-5241

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.		
11 Education		
12 Health and hospital		
13 Transportation		
14 Public safety		
15 Environment (including sewage bonds)		
16 Housing		
17 Utilities		
18 Other. Describe ► Aquatics Center	14,000,000	00
19 If obligations are TANs or RANs, check only box 19a		<input type="checkbox"/>
If obligations are BANs, check only box 19b		<input type="checkbox"/>
20 If obligations are in the form of a lease or installment sale, check box		<input type="checkbox"/>

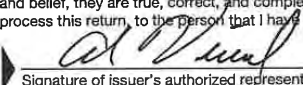
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22	Proceeds used for accrued interest			
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24	Proceeds used for bond issuance costs (including underwriters' discount)	24	113,000 00	
25	Proceeds used for credit enhancement	25		
26	Proceeds allocated to reasonably required reserve or replacement fund	26		
27	Proceeds used to currently refund prior issues	27		
28	Proceeds used to advance refund prior issues	28		
29	Total (add lines 24 through 28)	29	113,000 00	
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Part VI Miscellaneous

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d	Term of hedge ▶ _____		
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44	If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ <input checked="" type="checkbox"/>		
45a	If some portion of the proceeds was used to reimburse expenditures, check here ▶ <input type="checkbox"/> and enter the amount of reimbursement ▶ _____		
b	Enter the date the official intent was adopted ▶ _____		

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	 Signature of issuer's authorized representative		AI Viereck, Finance Officer Type or print name and title	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Todd Meierhenry			PTIN P01211995
	Firm's name ▶ Meierhenry Sargent LLP	Firm's EIN ▶ 46 0409359	Firm's address ▶ 315 S. Phillips Avenue, Sioux Falls, SD 57104	Phone no. 605-336-3075

Bond Counsel Opinion



Mark V. Meierhenry
Todd V. Meierhenry
Clint Sargent
Patrick J. Glover
Raleigh Hansman
Christopher J. Healy

Sabrina Meierhenry
Of Counsel

September 26, 2019

City of Yankton
PO Box 176
Yankton, SD 57078

Branch Banking and Trust Company
Attn: Government Finance
5130 Parkway Plaza Blvd.
Charlotte, NC 28217

Re \$14,000,000 Lease Agreement Between
Branch Banking and Trust Company and the City of Yankton, South Dakota

Ladies and Gentlemen

We have acted as bond counsel in connection with the issuance of the obligations described above, dated, as originally issued, as of September 26, 2019, related to a Lease Agreement (the "Lease") made by the City of Yankton (the "City"), as lessee, with Branch Banking and Trust Company, Charlotte, North Carolina (the "Bank"), as lessor for the purpose of providing funds to finance the purchase of a golf course.

For purposes of rendering this opinion, we have examined certified copies of certain proceedings taken, and certain affidavits and certificates furnished by the City including the following

- (i) the Lease;
- (ii) the Ground Lease dated September 26, 2019 between the City and the Bank (the "Ground Lease");
- (iii) the Wire Transfer Agreement dated September 26, 2019, between the City and the Bank (the "Wire Transfer Agreement");
- (iv) the Resolution adopted by the City Council on July 22, 2019 (the "Resolution");
- (v) such other documents as we have deemed relevant and necessary as a basis for the opinions set forth herein, including the form of the Certificates.

315 South Phillips Avenue, Sioux Falls, South Dakota 57104
(tel) 605•336•3075 (fax) 605•336•2593
www.meierhenrylaw.com

with attorneys licensed in South Dakota, North Dakota, Nebraska, Minnesota, and Iowa

As to questions of fact material to our opinion, we have assumed the authenticity of and relied upon the proceedings, affidavits and certificates furnished to us without undertaking to verify the same by independent investigation. From our examination of such proceedings, affidavits and certificates, and on the basis of existing law, it is our opinion that

1. The Lease, the Ground Lease, and the Wire Transfer Agreement (the "Related Documents") have been duly authorized, executed and delivered by the parties thereto and constitute valid and legally binding agreements of the parties thereto enforceable in accordance with the respective terms thereof, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

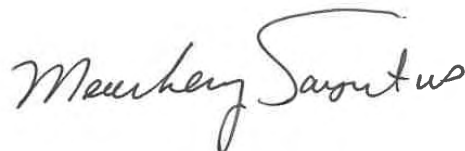
2. The City's obligation to make Lease Payments (as defined in the Lease) is subject to annual appropriation.

3. There is no litigation or other proceeding pending or, to the best of counsel's knowledge, threatened in any court, agency or other administrative body (either State or Federal) which could have a material adverse effect on (a) the financial condition of the City, (b) the ability of the City to perform its obligations under the Related Documents, (c) the security for the Related Documents and (d) the transactions contemplated by the Related Documents.

4. The Lease is not an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations.

5. The interest component of the Lease Payments to be received by the Bank, as lessor, is not includible in gross income of the owner for federal income tax purposes or for purposes of the federal alternative minimum tax, but the interest component of the Lease Payments to be received by the Bank is includible in gross income for South Dakota tax purposes when the recipient is a financial institution as defined in South Dakota Codified Laws, Chapter 10-43.

The opinions expressed in paragraphs 4 and 5 above are subject to the condition of the compliance by the City with all requirements of the Code that much be satisfied subsequent to the execution of the Lease in order that interest thereon may be, and continue to be, excluded from gross income for federal income tax purposes and that the Lease be and continue to be a qualified tax-exempt obligation. The City has covenanted to comply with these continuing requirements. Failure to do so could result in the inclusion of the interest component of the Lease Payments to be received by the Bank in gross income for federal income tax purposes, retroactive to the date of the Lease. Except as stated in this opinion, we express no opinion regarding federal, state or other tax consequences to the Bank.

A handwritten signature in cursive script, reading "Matthew Saroutus". The signature is written in dark ink and is positioned in the lower right quadrant of the page.