

CITY OF CALEDONIA, MINNESOTA

RESOLUTION 2020-07

A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF A \$764,000 TEMPORARY GENERAL OBLIGATION SEWER REVENUE NOTE, SERIES 2020A, AND PLEDGING NET REVENUES FOR THE PAYMENT AND SECURITY THEREOF

WHEREAS, the City of Caledonia, Minnesota (the "City") owns and operates a municipal sanitary sewer system (the "System") as a separate revenue producing public utility; and

WHEREAS, the net revenues of the System are pledged to the payment of the outstanding: (i) \$1,884,688 in original principal amount of General Obligation Sewer Revenue Bonds, Series 2012; (ii) \$170,000 in original principal amount of a General Obligation Sewer Revenue Note, Series 2012A; and (iii) \$665,000 in original principal amount of the Utility Revenue Portion of the General Obligation Street Reconstruction and Utility Revenue Bonds, Series 2018A (collectively, the "Outstanding Bonds"); and

WHEREAS, the City Council has heretofore determined and declared that it is necessary and expedient to issue a \$764,000 Temporary General Obligation Sewer Revenue Note, Series 2020A (the "Note"), pursuant to Minnesota Statutes, Section 444.075 and Chapter 475, particularly Section 475.61, Subdivision 6, to temporarily finance certain costs related to the construction of a new wastewater treatment plant for the System (the "Project"); and

WHEREAS, the City has retained David Drown Associates, Inc., in Minneapolis, Minnesota, as its independent municipal advisor for the sale of the Note and was therefore authorized to sell the Note by private negotiation in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(9); and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Caledonia, Minnesota, as follows:

1. Acceptance of Offer. The offer of First Independent Bank, Russell, Minnesota (the "Purchaser"), to purchase the Note at the rate of interest hereinafter set forth and to pay therefor the sum of par is hereby accepted.

2. Note Terms; Original Issue Date; Denominations; Maturities; Interest and Redemption. The City shall forthwith issue the Note, which shall be in fully registered form without interest coupons, shall be dated, mature, bear interest, be subject to redemption and be payable as provided in the form of the Note.

3. Purpose; Cost. The Note shall provide funds to temporarily finance the Project. The total cost of the Project, which shall include all costs enumerated in Minnesota Statutes, Section 475.65, is estimated to be at least equal to the amount of the Note. The City covenants that it shall do all things and perform all acts required of it to assure that work on the Project proceeds with due diligence to completion and that any and all permits and studies required under law for the Project are obtained.

4. Registrar. The Administrator-Clerk of the City of Caledonia, Minnesota, is appointed to act as registrar and transfer agent with respect to the Note (the "Registrar"), and shall do so unless and until a successor Registrar is duly appointed. The Registrar shall also serve as paying agent unless and until a successor paying agent is duly appointed. Principal and interest on the Note shall be paid to the registered holder (or record holder) of the Note in the manner set forth in the form of Note.

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

UNITED STATES OF AMERICA
STATE OF MINNESOTA
HOUSTON COUNTY
CITY OF CALEDONIA

R-1 \$764,000

TEMPORARY GENERAL OBLIGATION SEWER REVENUE NOTE, SERIES 2020A

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>
1.70%	June 1, 2023	June 8, 2020

REGISTERED OWNER: FIRST INDEPENDENT BANK, RUSSELL, MINNESOTA

PRINCIPAL AMOUNT: SEVEN HUNDRED SIXTY FOUR THOUSAND DOLLARS

The City of Caledonia, Houston County, Minnesota (the "Issuer"), certifies that it is indebted and for value received promises to pay to the registered owner specified above, or assigns duly certified on the Certificate of Registration attached to and made a part of this Note (the "Owner"), in the manner hereinafter set forth, the principal amount of this Note on the maturity date.

Interest. Interest shall be payable semiannually on June 1 and December 1 of each year, commencing June 1, 2021, and shall be calculated on the basis of a 360 day year consisting of twelve thirty-day months, until the principal sum has been paid for. At the time of final payment of all principal and interest on this Note, the Owner shall surrender this Note to the Administrator-Clerk of the City of Caledonia, Minnesota (the "Registrar").

Optional Redemption. This Note shall be subject to redemption and prepayment at the option of the Issuer on any date, in whole and not in part, upon written notice to the Owner, at the redemption price equal to par plus accrued interest to the date of prepayment.

Date of Payment Not a Business Day. If the nominal date for payment of any principal of or interest on this Note shall not be a business day of the Issuer or of the Owner, then the date for such payment shall be the next such business day and payment on such business day shall have the same force and effect as if made on the nominal date of payment.

Fees upon Loss. The Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with any legal or unusual costs regarding a lost Note.

Treatment of Registered Owner. The Issuer and Registrar may treat the person in whose name this Note is registered as the holder hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note shall be overdue, and neither the Issuer nor the Registrar shall be affected by notice to the contrary.

Issuance; Purpose; General Obligation. This Note is issued as a single instrument in the total principal amount of \$764,000, pursuant to and in full conformity with the Constitution and laws of the State of Minnesota and pursuant to a resolution adopted by the City Council on May 26, 2020 (the "Resolution") for the purpose of providing funds to temporarily finance certain costs related to the construction of a new wastewater treatment plant for the Issuer's municipal sanitary sewer system within the jurisdiction of the Issuer. This Note is payable out of the Temporary General Obligation Sewer Revenue Note, Series 2020A Fund of the Issuer, to which fund there are to be paid proceeds of the definitive bond or additional temporary bonds which the Issuer is required by law to issue at or prior to the maturity of this Note for the purpose of refunding the same if the net revenues of the System theretofore collected, or any other municipal funds which are properly available and are appropriated by the City Council for such purposes, are not sufficient for the full payment thereof. This Note constitutes a general obligation of the Issuer, and to provide moneys for the prompt and full payment of its principal, premium, if any, and interest when the same become due, the full faith and credit and taxing powers of the Issuer have been and are hereby irrevocably pledged.

Transfer. This Note is transferable, as provided in the Resolution, upon the Register kept by the Registrar upon surrender of this Note together with a written instrument of transfer duly executed by the Owner or the Owner's attorney duly authorized in writing, and thereupon a new, fully registered Note in the same aggregate principal amount shall be issued to the transferee in exchange therefor (or the transfer shall be duly recorded on the Register and the Certificate of Registration hereof), upon the payment of charges and satisfaction of applicable conditions, if any, as therein prescribed; provided that such transfer may occur only with respect to the entire Note and all of the remaining principal amount of the sole final maturity hereof. The City may treat and consider the person in whose name this Note is registered as the absolute Owner hereof for the purpose of receiving payment of or on account of the principal of and interest on this Note and for all other purposes whatsoever.

Authentication. This Note shall not be valid or become obligatory for any purpose or be entitled to any security unless the Certificate of Registration hereon shall have been executed by the Registrar.

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

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to happen and to be performed,

precedent to and in the issuance of this Note, have been done, have happened and have been performed, in regular and due form, time and manner as required by law; that the Issuer has covenanted and agreed with the Owner of the Note that it will impose and collect charges for the service, use and availability of the System at the times and in amounts necessary to produce net revenues adequate, together with all the proceeds of a definitive bond or additional temporary bond, to pay all principal and interest when due on the Note; and that the Issuer will levy a direct, annual, irrevocable ad valorem tax upon all of the taxable property of the Issuer, without limitation as to rate or amount, for the years and in amounts sufficient to pay the principal and interest on the Note of this issue as they respectively become due, if the net revenues from the System, and any other sums irrevocably appropriated and the proceeds of a definitive bond or additional temporary bond pledged to the Debt Service Account are insufficient therefor; and that this Note, together with all other debts of the Issuer outstanding on the date of original issue hereof and the date of its issuance and delivery to the original purchaser, does not exceed any constitutional or statutory limitation of indebtedness.

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

Date of Registration:
June 8, 2020

CITY OF CALEDONIA,
HOUSTON COUNTY, MINNESOTA

REGISTRABLE BY AND
PAYABLE AT:

Office of the Administrator/Clerk
City of Caledonia, Minnesota

[manual signature] _____
Mayor

[manual signature] _____
Administrator/Clerk

CERTIFICATE OF REGISTRATION

The transfer of ownership of the principal amount of the attached Note may be made only by the registered owner or the registered owner's legal representative last noted below:

<u>Date of Registration</u>	<u>Registered Owner</u>	<u>Signature of Registrar</u>
June 8, 2020	First Independent Bank 300 Front St Russell, MN 56169	_____

System as hereinafter set forth. The Administrator-Clerk and all officials and employees of the City concerned therewith shall establish and maintain financial records of the receipts and disbursements of the System in accordance with this resolution. In such records there shall be established and maintained accounts of the Fund for the purposes and in the amounts as follows:

(a) Construction Account. To the Construction Account there shall be credited the proceeds of the Note, less amounts designated as capitalized interest. From the Construction Account there shall be paid all costs and expenses of the Project, including the cost of any construction contracts heretofore let and all other costs incurred and to be incurred of the kind authorized in Minnesota Statutes, Section 475.65; and the moneys in said account shall be used for no other purpose except as provided for by law; provided that the proceeds of the Bond may also be used to the extent necessary to pay interest on the Note due prior to the anticipated date of commencement of the collection of net revenues herein pledged. Any balance remaining in the Construction Account after completion of the Project shall be transferred to the Debt Service Account.

(b) Debt Service Account. There are hereby irrevocably appropriated and pledged to, and there shall be credited to, the Debt Service Account: (i) the net revenues of the System not otherwise pledged and applied to the payment of other obligations of the City, in an amount, together with other funds which may herein or hereafter from time to time be irrevocably appropriated to the account sufficient to meet the requirements of Minnesota Statutes, Section 475.61, for the payment of the principal and interest of the Note; (ii) the proceeds of any definitive bond or additional temporary bond in an amount, together with other moneys then on hand irrevocably appropriated to said account, as is necessary to pay the principal of, and interest on, the Note (iii) any collections of all taxes which may hereafter be levied in the event that the net revenues of the System, the proceeds of any definitive bond or additional temporary bond and other available sums herein pledged to the payment of the Note are insufficient therefor; (iv) all funds remaining in the Construction Account after completion of the Project and payment of the costs thereof; (v) all investment earnings on funds held in the Debt Service Account; (vi) capitalized interest in the amount of \$32,217.46 (together with interest earnings thereon and subject to such other adjustments as are appropriate to provide sufficient funds) to pay interest due on or before June 1, 2023; and (vii) any and all other moneys which are properly available and are appropriated by the governing body of the City to the Debt Service Account. The amount of any surplus remaining in the Debt Service Account when the Note and interest thereon are paid shall be used consistent with Minnesota Statutes, Section 475.61, Subdivision 4. The moneys in the Debt Service Account shall be used solely to pay the principal of and interest on the Note or any other obligation hereafter issued and made payable from the Fund.

No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued and (2) in addition to the above in an amount not greater than the lesser of five percent of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note and any sums from time to time held in the Construction Account, the Operation and Maintenance Account, or Debt Service Account (or any other City account which will be used to pay principal or interest to become due on the Note payable therefrom) in excess of amounts which under then applicable federal arbitrage regulations may be invested without

regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable "temporary periods" or "minor portion" made available under the federal arbitrage regulations. Money in the Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note to be "federally guaranteed" within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

9. Coverage Test; Pledge of Proceeds of Definitive or Additional Temporary Bond and Net Revenues; Excess Net Revenues. To provide moneys for the prompt and full payment of principal and interest on the Note, the City shall issue and sell the definitive bond or additional temporary bonds for delivery and payment at or prior to the maturity date of the Note. The proceeds of the definitive bond or additional temporary bonds, together with estimated net revenues of the System, are hereby found, determined and declared to be sufficient in amount to pay when due one hundred five percent of the principal of and interest on the Note. It is hereby found, determined and declared that the net revenues of the System are sufficient in amount to pay when due the principal of and interest on the Note and a sum of at least five percent in excess thereof. The net revenues of the System are sufficient in amount to pay when due the principal of and interest on the Outstanding Bonds and a sum of at least five percent in excess thereof. The net revenues of the System are hereby pledged for the payment of the Note on a parity lien with the Outstanding Bonds, and shall be applied for that purpose, but solely to the extent required, together with the proceeds of a definitive bond or additional temporary bond, to meet the principal and interest requirements of the Outstanding Bonds and the Bonds as the same become due.

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

10. Conditions Prior to Issuance of Definitive Bonds and Prepayment of Note. It is hereby found, determined and declared that all conditions precedent to the offering of definitive bonds of the City have been met and exist.

11. Covenant to Maintain Rates and Charges. In accordance with Minnesota Statutes, Section 444.075, the City hereby covenants and agrees with the Owner of the Note that it will impose and collect charges for the service, use, availability and connection to the System at the times and in the amounts required to produce net revenues adequate, together with the proceeds of a definitive bond or additional temporary bond, to pay all principal and interest when due on the Note. Minnesota Statutes, Section 444.075, Subdivision 2, provides as follows: "Real estate tax revenues should be used only, and then on a temporary basis, to pay general or special obligations when the other revenues are insufficient to meet the obligations".

12. Defeasance. When the Note has been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the registered holder of the Note shall, to the extent permitted by law, cease. The City may discharge its obligations with respect to the Note which is due on any date by irrevocably depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full; or if the Note should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also discharge its obligations with respect to principal installments of the Note called for redemption on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full, provided that notice of redemption thereof has been duly given. The City may also at any time discharge its obligations with respect to the Note, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a suitable banking institution qualified by law as an escrow agent for this purpose, cash or securities described in Minnesota Statutes, Section 475.67, Subdivision 8, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without regard to sale and/or reinvestment, to pay all amounts to become due thereon to maturity or, if notice of redemption as herein required has been duly provided for, to such earlier redemption date.

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

The City hereby certifies and/or covenants as follows:

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

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

(c) The "reimbursement allocation" described in the Reimbursement Regulations for each Reimbursement Expenditure shall and will be made forthwith following (but not prior to) the issuance of the Note and in all events within the period ending on the date which is the later of three years after payment of the Reimbursement Expenditure or one year after the date on which the Program to which the Reimbursement Expenditure relates is first placed in service.

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

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

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

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

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

17. Negative Covenant as to Use of Proceeds and Project. The City hereby covenants not to use the proceeds of the Note or to use the Project, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Project, in such a manner as to cause the Note to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

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

For purposes of qualifying for the small issuer exception to the federal arbitrage rebate requirements for governmental units issuing \$5,000,000 or less of bonds, the City hereby finds, determines and declares that (i) the Note is issued by a governmental unit with general taxing powers; (ii) no Note is a private activity bond; (iii) 95% or more of the net proceeds of the Note is to be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); and (iv) the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City (and all entities subordinate to, or treated as one issuer with the City) during the calendar year in which the Note is issued and outstanding at one time is not reasonably expected to exceed \$5,000,000, all within the meaning of Section 148(f)(4)(D) of the Code.

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

- (a) the Note is issued after August 7, 1986;
- (b) the Note is not a "private activity bond" as defined in Section 141 of the Code;
- (c) the City hereby designates the Note as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;
- (d) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities treated as one issuer with the City, and all subordinate entities whose obligations are treated as issued by the City) during this calendar year 2020 will not exceed \$10,000,000;
- (e) not more than \$10,000,000 of obligations issued by the City during this calendar year 2020 have been designated for purposes of Section 265(b)(3) of the Code; and
- (f) the aggregate face amount of the Note does not exceed \$10,000,000.

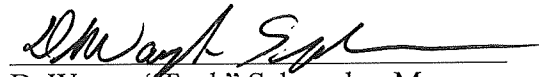
The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this paragraph.

20. Offering Circular. The Offering Circular relating to the Note prepared and distributed by David Drown Associates, Inc., is hereby approved and the officers of the City are authorized in connection with the delivery of the Note to sign such certificates as may be necessary with respect to the completeness and accuracy of the Offering Circular.

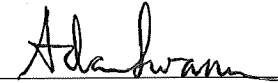
21. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

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

ADOPTED by the Caledonia City Council this 26th day of May, 2020.


DeWayne "Tank" Schroeder, Mayor

ATTEST:


Adam G. Swann, Clerk/Administrator

STATE OF MINNESOTA)
COUNTY OF HOUSTON)
CITY OF CALEDONIA)

I, Adam Swann, city clerk and administrator of the City of Caledonia, do hereby certify that this is a true and correct transcript of the resolution that was adopted at a meeting held on the 26th day of May, 2020, the original of which is on file in this office. I further certify that 5 members voted in favor of this resolution and that 5 members were present and voting.

Signed Adam Swann

Date May 27, 2020