

City of Tea
Regular Meeting
October 19, 2020

A regular meeting of the Tea City Council was held at Tea City Hall on October 19, 2020, at 7:00 p.m.

Mayor John Lawler called the meeting to order at 7:01 pm with the following members present: Sidney Munson (via Zoom), Jim Erck (via Zoom), Chuck Ortmeier, Joe Weis, Casey Voelker and Todd Boots. Also present: Finance Officer Dawn Murphy, Planning & Zoning Administrator Kevin Nissen (via Zoom) and City Administrator Dan Zulkosky.

AGENDA. MOTION 20-135. MOTION by Ortmeier, seconded by Weis to move the HDR Amendment to Agreement for Engineering Services from the consent agenda to the regular meeting and approve the October 19, 2020 Agenda. All members voted AYE.

CONSENT AGENDA. MOTION 20-136. MOTION by Ortmeier, seconded by Weis to approve the following October 19, 2020 consent agenda items:

1. Approval of September 21, 2020 Minutes
2. Approval of October, 2020 Bills
3. Acceptance of Park & Recreation Board Member Bleau LaFave Resignation
4. Building Permits
 - #20-274 -Glass Doctor Building Permit – 2420 Bakker Landing, Javers Const.
 - #20-292 Midwest Stone Building Plans
 - #20-274 Glass Doctor Building Plans
 - #20-283 Gruen-Wald Cold Storage Addition Building Plans
5. Plats:
 - Lot 2, Block 8, Bakker Landing 1st Addition
 - Lots 2A & 2B Block 7, Heritage Addition
 - Lots 19-29, Block 1, Lot 1, Block 4, Heritage Addition

All members voted AYE.

There were no public comments.

MIDWEST STONE SITE PLAN. Kevin presented and recommended approval of a site plan for construction of a 8,625 sq. ft. building in Bakker Landing Addition. **MOTION 20-137. MOTION** by Boots, seconded by Weis to approve the site plan for Midwest Stone for construction of a 8,625 sq. ft. building on Lot 3, Block 3, Bakker Landing 1st Addition. All members voted AYE.

WATERTOWER FUNDING RESOLUTION 20-10-14. MOTION by Munson, seconded by Ortmeier to approve Resolution 20-10-14. A Resolution Giving Approval to Certain Drinking Water Facilities Improvements; Giving Approval to the Issuance And Sale of a Revenue Bond to Finance, Directly or Indirectly, the Improvements to the Facilities; Approving the Form of the Loan Agreement and the Revenue Bond and Pledging Revenues and Collateral to Secure the Payment of the Revenue Bond; and Creating Special Funds and Accounts for the Administration of Funds for Operation of the System and Retirement of the Revenue Bond. All members voted AYE. The resolution will be published separately.

HDR CONTRACT AMENDMENT. MOTION 20-138. MOTION by Ortmeier, seconded by Weis to approve the Amendment to Agreement for Engineering Services for Gateway Boulevard (CR 106) Phase 2 Improvements Project in an amount not to exceed \$922,102.86. All members voted AYE.

MOTION 20-139. MOTION by Weis, seconded by Ortmeier to adjourn at 8:12 pm. All members voted AYE.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

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**CITY OF TEA
 WARRANTS PAID OCTOBER 2020**

LEGISLATIVE 4111

Independent Publishing	Publishing	219.26
Sertoma Club	Annual dues	160.00

FINANCE 4142

Explorers CU (Best Buy)	Computer monitor	266.24
Marco	1/3 Copy lease/maint agreement	299.03

ENGINEERING 4196

HDR Engineering	General	1,862.59
HDR Engineering	P & Z	4,315.91
HDR Engineering	Drainage	82.50
HDR Engineering	Streets	775.52
HDR Engineering	1st St. Extension	31,651.25
HDR Engineering	TAP shared use path	3,343.67
HDR Engineering	Long Range Transportation Planning	577.50
HDR Engineering	GIS	315.00

LIBRARY 4550

Verizon	Internet	40.01
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PLANNING & ZONING/ECONOMIC DEVELOPMENT 4650

Code Works	Plan reviews	1,715.80
Baker, Rick	12 P & Z Meetings	900.00
Explorers CU (USPS)	Postage	23.70
Independent Publishing	Publishing	170.42
Lincoln County Register of Deeds	Plats	655.00
Odland, Tim	Inspections	2,300.00
Robertson, Steve	Inspections	3,650.00

GOVERNMENT BUILDINGS 4192

Ace Hardware	Supplies	47.36
Banner	Law Enforcement Center	15,765.80
City of Tea	City Hall High Flow	277.90
City of Tea	City Hall Low Flow	623.50
City of Tea	Community Hall-200 W. Maple	58.40
City of Tea	Maint bldg.	82.80
Explorers CU (Zoom)	Zoom	15.96
Fareway	Supplies	125.74
Innovative Office Solutions	Supplies	105.36
J & R Mechanical	Repair City Hall a/c	85.00
Mid American Energy	Maint bldg.	8.00
Mid American Energy	City Hall	74.03
Mid American Energy	Community Hall-200 W. Maple	10.18
RBS Sanitation Inc.	Garbage 10/1-12/31	801.79
U Drive Technology	Texting	50.32

Vast	Maint. Bldg. phone	118.42
Vast	City Hall phone	457.11
Verizon	Phones	262.03
Xcel Energy	City Hall, 600 E. 1st St.	1,006.11
Xcel Energy	200 W. Maple	128.94
Xcel Energy	Maint. Bldg	151.45

PUBLIC SAFETY 4210

Ace Hardware	Supplies	14.57
Anderson, Darla	Cleaning 9/20 & 10/4	100.00
Auto Dynamics, Inc.	Oil change	74.41
Cenex	Gasoline	1,218.81
City of Tea	Water	58.40
Evident, Inc.	DNA swabs	33.95
Explorers CU (Eventbrite)	Child abuse conference	75.00
Explorers CU (Microsoft)	Software	74.54
Explorers CU (USPS)	Posage	76.43
Frantzen Reporting	Transcription fee	128.00
Innovative Office Solutions	Supplies	79.95
Jack's Uniforms & Equipment	Clothes	236.29
Jack's Uniforms & Equipment	Vest	956.35
John E. Reid & Associates	Conference	575.00
John E. Reid & Associates	Conference	575.00
Landreth Frame & Body, Inc.	Repair car	4,064.62
Mid American Energy	Service	10.61
Midwest Alarm	Monitoring	87.00
Quigley, Jessica	Halloween candy	108.56
Vast	Phone	569.40
Verizon	Phones	399.74
Xcel Energy	Service	283.27
Xcel Energy	Siren	20.29

HIGHWAY/STREET 4312

Bumblebee-Gibson Inc.	Hagedorn dust control	3,552.50
Bierschbach	Compressor	14,908.27
Casey's	Gasoline	93.40
Cenex	Gasoline	65.16
City of Tea	Boulevard water	434.30
Eastern Farmers Elevator	Fues	378.86
Explorers CU (Compressor Parts)	Return parts never received	(1,035.16)
Explorers CU (Ramkota))	Easement lunch	26.45
Keehn, Kelly	Clothing allowance	100.00
Mac's	Street sign bolts	50.08
Mac's Hardware	Sign bolts & nuts	50.08
Matheson Trigas Inc.	Torch hoses & tip	244.35
Old Dominion Brush	Sweeper parts	2,185.44
Ralph's Repair	Tire disposal	25.00
SD DOT	TAP sidewalk	751.87
Southeastern Electric	Locates	247.50
Southeastern Electric	Street lights	2,368.62
Southeastern Electric	Locates	357.50

Trans Source	Backhoe Hydraulic Pipe	333.04
Xcel Energy	Street lights	3,539.43
Xcel Energy	7th St. lights	21.83

PARKS/RECREATION 4501

Ace Hardware	Supplies	123.96
City of Tea	Flex fields water	4,277.30
City of Tea	Ball fields water	541.10
City of Tea	Park restroom	62.30
Verizon	Park camera	40.01
Xcel Energy	Ball fields	1,034.52

WATER 601

Badger Metering	Meter reading support	520.52
Badger Metering	Meters	1,761.28
Casey's	Gasoline	93.41
Explorers CU (USPS)	Postage	175.00
HDR Engineering	272nd St. Water	3,583.75
HDR Engineering	85th St. Tower	8,086.01
Lewis & Clark	Lobby fees	2,012.50
Lewis & Clark	17,347,324 Sepember usage	24,784.77
Maguire Iron	Pay Application 1 - Bakker Landing tower	100,315.00
Marco	1/3 copy lease	229.03
SD One Call	Locates	115.36
Southeastern Electric	Towers	208.32
US Bank	SRF DW #1	38,593.10
Xcel Energy	Rural Water	18.08
Xcel Energy	Brian St. Tower	73.38
Xcel Energy	2nd St. Tower	16.86

SEWER 604

Badger Meter	Meter reading support	520.53
Casey's	Gasoline	93.41
Explorers CU (USPS)	Postage	175.00
HDR Engineering	272nd St. Sewer	3,142.50
HDR Engineering	Regionalization	14,124.22
Hydro Klean	Televis new construction	11,566.87
Marco	1/3 copy lease	229.04
SD One Call	Locates	115.36
Southeastern Electric	High Point lift station	138.22
US Bank	SRF CW #6	13,420.14
US Bank	SRF CW #7	14,084.64
Xcel Energy	Lagoon blowers	4,383.31
Xcel Energy	5th St. Lift Station	77.99
Xcel Energy	S. lift station	451.44

SPECIAL PARK FUND 201

Ace Hardware	Marking paint	148.91
Carter, Turek	Flag football ref	100.00
DeYoung, Keegan	Flag football ref	200.00
DeYoung, Keegan	Flag football ref	100.00

Ellingson, Caden	Flag football ref	125.00
Ellingson, Caden	Flag football ref	225.00
Explorers CU (Crown Trophies)	Soccer Trophies	503.95
Gilbert, Tyson	Flag football ref	60.00
Headrick Brian	Flag football ref	180.00
Headrick, Brian	Field Manager	180.00
Lacey Rentals	Toilets	110.00
Lake, Austin	Flag football ref	100.00
Thompson, Blake	Flag football ref	125.00
Thompson, Blake	Flag football ref	275.00
Tuerk, Carter	Flag football ref	200.00

3RD PENNEY 211

Xcel Energy	Services	158.83
Mid American Energy	Services	15.00
Vast	Phone	38.43
Verizon	Internet	40.01

GATEWAY BLVD CAPITAL PROJECT 515

Lincoln County Register of Deeds	H-Lots	424.00
HDR Engineering	Real Estate Services	15,475.80
HDR Engineering	Gateway Blvd Service	15,922.00
Meierhenry Sargent, LLP	Services	2,520.00
Seubert, Jeanne & Donald	Easement	5,315.00

403,828.46

September Payroll

DEPARTMENT	GROSS PAY	SS/MED	RETIRMENT	TOTAL
Administrator 4122	7,422.84	567.86	445.38	8,436.08
Finance 4142	5,573.08	426.32	334.38	6,333.78
Public Safety 4210	35,200.55	2,594.39	2,711.11	40,506.05
Highway/Streets 4311	10,365.73	771.55	546.37	11,683.65
Recreation 4501	3,492.11	254.76	209.53	3,956.40
Planning & Zoning 4650	5,109.37	386.04	306.56	5,801.97
Water Distribution 4334	5,923.95	449.07	355.46	6,728.48
Water Clerk 4335	1,440.00	110.16	86.40	1,636.56
Sewer Administration 4321	5,925.72	449.15	355.51	6,730.38
Sewer Sanitary Clerk 4322	1,440.00	110.16	86.40	1,636.56
TOTAL SEPTEMBER PAYROLL	81,893.35	6,119.46	4,991.72	93,449.91

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CITY OF TEA

RESOLUTION NO. 20-10-14

RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the “Act”) as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of system of waterworks for the purpose of providing water and water supply for municipal, industrial, and domestic purposes; and,

WHEREAS, a municipality is authorized to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned and is authorized to pledge the net income or revenues from the system in accordance with Section 15 of the Act; and,

WHEREAS, the City of Tea (the “City”) currently operates a system of waterworks for the purpose of providing water and water supply for municipal, industrial, and domestic purposes and has determined that improvements to the waterworks are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its waterworks system; and,

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its waterworks system (the “System”) and has applied to the South Dakota Conservancy District (the “District”) for a Drinking Water State Revolving Fund Loan to finance the improvements;

WHEREAS, the City shall adopt rates and charges to be pledged, segregated and used for the payment of the Revenue Bond.

NOW THEREFORE BE IT RESOLVED by the City as follows:

SECTION 1. Definitions. The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

“**Act**” means South Dakota Codified Laws Chapter 9-40.

“**Loan**” means the Loan made by the South Dakota Conservancy District to the City pursuant to the terms of the Loan Agreement and as evidenced by the Revenue Bond.

“**Project**” means City of Tea Water Tower Project.

“**Revenue Bond**” means the revenue bond or bonds issued the date of the Loan Agreement by the City to the South Dakota Conservancy District to evidence the City’s obligation to repay the principal of and pay interest and Administrative Expense Surcharge on the Loan.

“System” means the City’s system of waterworks used for the purpose of providing water and water supply for domestic, municipal, and industrial purposes.

SECTION 2. Declaration of Necessity and Findings.

2.1. Declaration of Necessity. The City hereby determines and declares it is necessary to construct and finance improvements to its System described as the Project.

2.2. Findings. The City does hereby find as follows:

2.2.1. The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants, and will make the City unable to comply with state and federal law.

2.2.2. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

2.2.3. The City hereby determines and finds that for the purposes of the Act, including, in particular, Sections 15 and 17 of the Act, that only the net income from the system as improved, financed by the Revenue Bond, be pledged for its payment.

SECTION 3. Authorization of Loan, Pledge of Revenue and Security.

3.1. Authorization of Loan. The City hereby determines and declares it necessary to finance up to \$2,700,000 of the costs of the Project through the issuance of bonds payable from net revenues of the System and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

3.2. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the “Loan Agreement”), the form of which is on file with the City Finance Officer (the “Finance Officer”) and open to public inspection, between the City as Borrower and the District, are hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

3.3. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$2,700,000 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the “Revenue Bond”) shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in

the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

3.4. Pledge of Revenues. The Revenue Bond together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City hereby irrevocably pledges to the South Dakota Conservancy District all income and revenues of the System, including, without limitation, fees, charges to users of the System, penalties and hook-up fees, sign-up fees, proceeds of business interruption insurance, proceeds from the sale of property constituting part of the System and investment income on all such revenues, but only to the extent that the revenues exceed the amounts necessary to operate and maintain the System, provided there shall be excluded from this pledge the proceeds of any federal or state grant or loan, and the investment income therefrom, to the extent such exclusion is a condition of such grant or loan. The City covenants and agrees to charge rates for all services from the System or establish charges or rates which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

SECTION 4. Rates, Certification, Segregation and Review.

4.1. Rates and collection There shall be charged rates for each fiscal year which shall ensure that its Net Revenues Available for Debt Service will equal at least 110% of its System Debt Service for such fiscal year.

4.2. Certification. In each fiscal year, or as soon as practicable, and in any event by the date of the delivery of the unaudited financial statements required in the Loan Agreement, the City shall (a) calculate its Net Revenues Available for Debt Service and System Debt Service for the fiscal year, and (b) certify such figures to the South Dakota Conservancy District. The certification described in clause (b) of the preceding sentence shall be substantially in the form of the certificate attached as Appendix E to the Loan Agreement. If the City fails to meet the Rate Covenant set forth in Section 6.4 of the Loan Agreement, the City shall supply the District with quarterly reports on the actions it is taking to correct its coverage deficiency until it delivers an annual coverage certificate showing compliance with the first sentence of this Section.

4.3. Segregation. The Finance Officer shall set up bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue.

4.4. Periodic review. The water rates shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement's rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. The rates may be set by ordinance or resolution in accordance with this Section. The rate ordinance or resolution shall be necessary for the support of government and shall be effective upon passage.

SECTION 5. Additional Bonds. As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

SECTION 6. Project Fund Accounts. For the purpose of application and proper allocation of net income of the System and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the water system account of the City and shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

6.1. Project Revenue Account. There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the ordinances and resolutions of the City of Tea, South Dakota (collectively the "Rate Ordinance"). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

6.2. Project Debt Service Account. Out of the revenues in the Project Revenue Account, there shall be set aside no later than the 25th day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal of, interest and Administrative Surcharge on the Revenue Bonds and any reserve determined by the City's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and Administrative Surcharge payable on the following February 15, May 15, August 15 and November 15 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

6.3. Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the Project Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the Common Council to be a proper and adequate amount for repair and depreciation of the Project.

6.4. Project Surplus Account. There shall be established the Project Surplus Account. Revenues remaining in the Project Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Common Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the Project Debt Service Account, moneys in the Project Surplus Account from time to time may be used for any of the following purposes and not otherwise:

- (a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;
- (b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then;
- (c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or
- (d) To be used for any other authorized municipal purpose designated by the Common Council;
- (e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

SECTION 7. Approval of Paying Agent/Registrar. The Revenue Bond shall be payable at the office of U.S. Bank National Association, St. Paul, Minnesota, hereby designated as paying agent and registrar.

SECTION 8. Approval of Bond Counsel. Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

SECTION 9. Tax Matters. The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (“the Code”) and applicable Treasury Regulations (the “Regulations”).

SECTION 10. Covenants. The City hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

10.1. The City will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

10.2. The City agrees and covenants that it will promptly construct the improvements included in the Project.

10.3. The City covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest and Administrative Surcharge on the Revenue Bond, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

10.4. The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

SECTION 11. Depositories. The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased and handled and accounted for in the same manner as other moneys therein.

SECTION 12. Consent to Appointment. In the event of mismanagement of the Project, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the Project are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to Section 33 of the Act, and agrees that the receiver will have the powers set forth therein, and in Section 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

SECTION 13. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

SECTION 14. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

SECTION 15. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Adopted at Tea, South Dakota, this 19th day of October, 2020.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

Published once at the approximate cost of \$ _____.

Published: October 23, 2020

Effective: November 12, 2020