

REGULAR MEETING DE SMET COMMON COUNCIL  
October 21, 2020

The De Smet Common Council met in regular session on October 21, 2020, at 5:00 p.m., with the following present: Council members Pam Spader, Bret Jensen, Lowell Hansen, George Cavanaugh, Shon Asleson, Jay Slater (via video conference), Mayor Gary Wolkow, Finance Officer Tracey Larson. Absent: none.

Mayor Wolkow called the meeting to order at 5:00 PM.

**PLEDGE OF ALLEGIANCE:** The meeting was started with the council and those from the public reciting the Pledge of Allegiance.

**ANNOUNCEMENTS:** Mayor Wolkow asked anyone attending the meeting by phone or video conference to please mute their devices.

**MINUTES:** Motion was made by Cavanaugh, seconded by Jensen, to approve the minutes of the September 9, 2020 Regular Meeting, all voting aye, motion carried.

**CLAIMS:** Motion by Cavanaugh, seconded by Asleson, to approve payment of the claims as presented, all voting aye, motion carried, motion carried. The claims are as follows: PAYROLL \$35,909.70; OASI Benefit 2,747.08; Aflac, ins. premium 280.95; Dearborn National, life insurance 140.80; Delta Dental of South Dakota 360.44; VSP 190.96; The Health Pool of SD, health insurance premium 6,413.12; SDRS, retirement benefit 3,958.16; Mediacom, utilities 111.99; American Trust Insurance, streets insurance 62.00; Avera Occupational Medicine, supplies 68.55; Avid Hawk LLC, supplies 35.00; Blue Valley Public Safety, Inc. repairs & maintenance 2,311.54; Building Sprinkler, Inc., inspection 475.00; Butler Machinery Co., repairs & maintenance 824.34; Carroll Ferdig, event center deposit refund 405.00; Center Point Large Print, supplies 29.21; Century Link, utilities 570.05; Chari Sazue, meter deposit refund 75.00; City of De Smet, water meter deposit refund 68.64; City of De Smet, utilities 492.42; City of De Smet, supplies 50.75; CMI Architectural, repairs & maintenance 364.60; Colonial Research, supplies 330.24; Connecting Point, software, supplies, repairs 665.00; Cook's Wastepaper & Recycling, residential garbage collection 6,626.21; Dakota Pump, Inc., repairs & maintenance 750.00; Daniel Foley, event center deposit refund 10.00; Darrion Poppen, event center deposit refund 275.00; De Smet Trustworthy Hardware, supplies 118.43; Demco, supplies 29.72; Denae Tordoff, event center deposit refund 30.00; Department of Health, water labs 562.00; Ed Askew, property damages 549.98; Efraimson Electric, Inc., sewer improvements 1,801.23; Glacial Lakes and Prairies, marketing 3,116.00; Hawkins, Inc., chemicals 4,667.92; Heartland, supplies 388.10; Huron Pro Clean Plus, LLC, repairs 485.36; Interstate Power Systems, repairs & maintenance 506.00; Kingsbury Electric Cooperative, maintenance contract 220.00; Kingsbury County Auditor, law enforcement contract

6,283.33; Kingsbury Electric Cooperative, utilities 148.22; Kingsbury Journal, publishing 1,046.49; Kristy Hubbard, reimburse for supplies 14.94; Lisa Fuhr, event center deposit refund, 50.00; M & T Fire and Safety, equipment 10,969.13; M & T Fire and Safety, repairs & maintenance 715.00; Maynard's, supplies 49.19; Maynard's, supplies 10.78; Mediacom, utilities 460.60; Mediacom, utilities 75.67; Micro Marketing LLC, supplies 736.25; MR Tikka Construction, LLC, repairs & maintenance 218.62; Napa, repairs & maintenance 39.13; Northwestern, utilities 102.95; O'Keefe Implement, Inc., supplies, repairs & maintenance 297.09; O'Keefe Implement, Inc., repairs & maintenance 293.62, Office Peeps, Inc., supplies 39.90; Office Peeps, Inc., supplies & equipment, 5,561.02; Ottertail Power Company, utilities 5,197.25; Postmaster, supplies 175.00; Ramkota Hotel & Conference Center, travel & conference 77.00; Reader Service, library supplies 18.33; Reed, debt service principal 690.58; Reed, debt service principal 2,500.00; Rich's Gas & Service, fuel, repairs & maintenance 1,195.78; Rob Kittay-Board Of Operator, supplies 10.00; Runnings Supply, Inc., supplies 31.90; Schubloom Construction, Inc., rental 63.83; SD Dept. of Revenue, sanitation sales tax 452.06; SD One Call, repairs & maintenance 920.85; Share Corp, supplies & chemicals 4,979.43; Smith's Lumber, supplies 325.78; State of SD, utilities 26.67; The Main Stop, fuel 37.19; US Bank, water loan principal & interest 2,666.22; Van Diest Supply Company, supplies 1,788.50; Visa, supplies & utilities 82.90; Kingsbury Electric Cooperative, repairs & maintenance 226.52; Clark Engineering, water looping project 665.00; Helms & Associates, airport taxilane project 2,265.97.

**BUILDING PERMITS:** Building permit applications were reviewed and presented to the council by the zoning officers. Motion was made by Slater, seconded by Cavanaugh, to approve the building permit application submitted by Leonard Rumbolz for a 17'6" x 23' addition to his existing garage, all voting aye, motion carried. Motion was made Jensen, seconded by Asleson, to approve the building permit application submitted by Rob Cleveland for a concrete slab for a dog kennel, all voting aye, motion carried. Motion was made by Slater seconded by Jensen, to approve the building permit application submitted by Nimble, LLC, for a 10' x 19'6" addition to a commercial building, all voting aye, motion carried.

**SPECIAL LIQUOR LICENSES:** The De Smet Volunteer Fire Department has requested a special liquor licenses for an event to be held at the De Smet Event Center on November 7, 2020 from 4:30 PM to 12:00 AM. Motion was made by Cavanaugh, seconded by Asleson, to approve the special liquor licenses for the De Smet Volunteer Fire Department, for an event to be held at the De Smet Event Center on November 7, 2020 from 4:30 PM to 12:00 AM, all voting aye, motion carried.

**FIRE DEPARTMENT MEMBERS:** Motion was made by Slater seconded by Asleson, to approve Andy Alderman as a volunteer fireman replacing Bruce Gebhardt and James Millman as a volunteer fireman replacing Dane

Coughlin on the De Smet Volunteer Fire Department, all voting aye, motion carried.

**FIRE DEPARTMENT:** Shawn Wolkow, Fire Chief and Cole Munger, Supt. of Buildings/Parks and Fire Department member, met with the council to discuss the option to have the Huron Dispatch setting off the De Smet sirens. Currently the sirens are set off by one of the Fire Department members. Fire Chief Wolkow and Supt. Munger both agreed that the current setup for setting off the De Smet sirens is working and didn't feel that it was necessary to add another option to set off the De Smet sirens at this time.

**KINGSBURY COUNTY EMERGENCY MANAGEMENT:** Cindy Bau, Kingsbury County Emergency Management Director met with the council to discuss the updated Pre-Disaster Mitigation Plan 2019-24 and the items identified as future projects.

**MIKE PIPPETT:** Mike Pippett, owner of the building that Baakers II was located in, met with the council to discuss an outstanding liquor purchase balance and city 5% markup in the amount of \$2,998.52 that has not been paid by the last bar operator. Motion was made by Slater, seconded by Asleson, to approve the City of De Smet assuming the liquor debt owed to Johnson Brothers in the amount of \$2,622.38. Upon roll call vote, voting aye was: Spader, Asleson, Slater, voting nay: Hansen, Jensen, Cavanaugh. The tie vote was broken by Mayor Wolkow voting nay, motion failed to pass. Motion was made by Jensen, seconded by Asleson, to approve splitting the bill owed to Johnson Brothers in the amount of \$2,622.38, 50% to be paid by Mike Pippett and 50% by the City of De Smet and to abate the 5% markup charge owed to the City. Upon roll call vote, voting aye was: Hansen, Spader, Jensen, Asleson, voting nay was: Slater and Cavanaugh, motion carried.

**TRANSFER OF ON-SALE LIQUOR & ON/OFF SALE MALT BEVERAGE WITH SD FARM WINE LICENSES:** Motion was made by Cavanaugh, seconded by Slater to approve transferring the on-sale liquor license and the on/off sale malt beverage with SD Farm Wine license from Baakers II (Rick Baack) to Wendy Lu Lounge (LuAnn Klinkel), all voting aye, motion carried.

**MASK MANDATE:** Kathy Hawkins and Joan Wollschlager met with the council to ask the council to establish a mask mandate in De Smet. The City informed Hawkins and Wollschlager that the City has free mask required signs that were donated and available to businesses and residents who would like some. These signs were also distributed to local businesses. The council agreed to put an ad in the Kingsbury Journal supporting people wearing masks.

**RESOLUTION 2020-1:** At the June 10, 2020 Regular Council meeting, the council approved amending Resolution 2020-1 to allow establishments to open to 50% of building capacity at a time for on-premise consumption of food/beverage excluding employees, with six (6) feet social distancing between people, businesses being responsible to monitor their establishment, to be effective June 11, 2020, with no additional special meetings to be held unless drastic changes happen with the number of COVID-19 cases. Motion was made by Cavanaugh,

seconded by Asleson, to approve extending the current Resolution 2020-1 until November 10, 2020, with the addition that wearing masks are supported when in a public place, all voting aye, motion carried.

**PUBLIC COMMENTS:** Wade Hoffert inquired if the City had a Tree Board and expressed concern about there still being trees hanging over sidewalks in some areas and in front of street signs.

**WATER LOOPING PROJECT:** John Dessen, Engineer with Clark Engineering/IMEG met with the council to give an update on the water looping project. To start the SRF Loan funding, a resolution supporting the project for the financing needs to be passed. The loan will be repaid with a water surcharge on the water billing. Dessen also informed the council that the rail road application had been approved with requirements such as termination clause, indemnity/liability, and insurance requirements, and the plans & specifications have been prepared by Clark Engineering and approved by the SD DENR. The plan for schedule of for the water looping project is to call and open bids in November, award a bid in December, and the project to be done in 2021. Motion was made by Cavanaugh, seconded by Spader, to approve Resolution 2020-9 authorizing the issuance of Sales & Revenue Bonds to support the repayment of the water looping project loan, upon roll call vote, voting aye was: Hansen, Spader, Jensen, Slater, Asleson, and Cavanaugh, voting nay: none, motion carried.

#### **RESOLUTION NO. 2020-9**

**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 PROJECT 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 AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE BONDS.**

**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 any system of waterworks for the purpose of providing water and water supply for domestic, municipal, together with extensions, additions, and necessary appurtenances; and,

**WHEREAS**, a municipality is authorized by Section 6 of the Act to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned without pledging its credit and is authorized to pledge the net income or revenues from the Project in accordance with Section 15 of the Act; and,

**WHEREAS**, the City of DeSmet (the "City") currently operates a water distribution system to supply municipal, industrial and domestic

water to its inhabitants and has determined that improvements to the drinking water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its drinking water system; and,

**WHEREAS**, the City has determined to issue its revenue bonds to finance the improvements to its system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes (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 special rates or surcharges for the improvements to be pledged, segregated and used for the payment of the Bonds.

**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 the City of DeSmet Water System Looping Improvements 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 declares and determines it is necessary to construct and finance improvements to its drinking water facilities within 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 Project 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 \$565,000 of the costs of the Project through the issuance of bonds payable from the revenue of the Project 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, is 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 \$565,000 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, 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 covenants and agrees to charge rates for all services from the Project or establish special charges or surcharges 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 Project, and depreciation, and the Rate Resolution 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. Special Charge or Surcharge for Revenue Bond.** The City does hereby create the Revenue Bond Special-Surcharge District (the "Surcharge District") which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be

segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.

**4.1. Rates and collection.** The rate herein specific will be collected as a special charge or surcharge for the Project. This special charge or surcharge shall remain in effect until such time as the Revenue Bond is defeased or paid in full.

**4.2. Initial Surcharge.** The initial special charge or surcharge shall be set by resolution and collected at the same time as other charges of the utility. All users within the Surcharge District which benefit from the Project, current and future, shall be charged the special charge or surcharge. The special charge or surcharge is found to be equitable for the services provided by the Project. The special charge or surcharge shall begin at such time as will produce sufficient revenue to pay principal, interest and Administrative Surcharge on the Revenue Bond when due.

**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, special charges and surcharges.

**4.4. Periodic review.** The amount of the surcharge 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 surcharge may be set by resolution in accordance with this Section. The rate 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 or Project 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 the income of the Project 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, interest and Administrative Surcharge 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 resolutions and ordinances of the City of DeSmet, South Dakota (collectively the "Rate Resolution"). 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 25<sup>th</sup> 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 or 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 Sections 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. Repeal of Resolution.** At such time as the Project Revenue Bond is defeased or paid in full, this Resolution and the special charge or surcharge shall automatically be repealed without any further action of the City.

**SECTION 15. 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 16. Effective Date.** This Resolution shall take effect on the 20<sup>th</sup> day following its publication, unless suspended by a referendum.

Adopted at DeSmet, South Dakota, this 21st day of October 2020.

**APPROVED:**

\_\_\_\_\_  
Mayor - Gary Wolkow

(SEAL)

Attest: \_\_\_\_\_  
Finance Officer - Tracey Larson

Adopted: October 21, 2020  
Published: November 4, 2020  
Effective: November 24, 2020

Motion was made by Slater, seconded by Asleson, to approve the Mayor as the authorized person to sign project documents and to approve the railroad Occupancy License Agreement and Contractor Right of Entry License Agreement with Rapid City, Pierre, & Eastern Railroad, Inc., all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Asleson, to approve the Plans and Specifications for the Water Distribution System Improvements SRF C462193-02 De Smet, SD, all voting aye, motion carried. Motion was made by Jensen, seconded by Spader, to authorize advertising for bids for the Water Looping project with bids to be opened on November 18<sup>th</sup>, at City Hall, all voting aye, motion carried.

**EXECUTIVE SESSION:** At 6:56 PM, motion was made by Asleson, seconded by Hansen, to go into executive session to discuss contract negotiations, all voting aye, motion carried. Mayor Wolkow declared the council out of executive session at 7:34 PM.

**TRANSFER OF OPERATING AGREEMENT:** Motion was made by Hansen, seconded by Slater, to approve the transfer of the operating agreement from Baackers II (Rick Baack) to Wendy Lu Lounge (LuAnn Klinkel) with the amendment to the operating agreement that a surety bond in the amount of \$10,000.00 is required, all voting aye, motion carried.

**COVID EMPLOYEE POLICY:** With the current situation, it is necessary to establish guidelines when and if an employee has been in contact with someone who has tested positive for Covid-19 or has tested positive. Motion was made by Cavanaugh, seconded by Asleson, to approve the COVID Employee Policy, all voting aye, motion carried.

**SPECIAL ASSESSMENTS:** Motion was made by Hansen, seconded by Cavanaugh, to approve assessing \$100.00 for property maintenance at property legally described as: Lot 17, Block 2, Original Plat, De Smet, Kingsbury County, South Dakota, all voting aye, motion carried.

**APPRAISAL OF HARVEY DUNN PAINTINGS:** A quote in the amount of \$1,187.69 from Alla Prima Art Services was presented to the council. The purpose of the appraisal is to determine a value for insurance coverage. Motion was made by Cavanaugh, seconded by Asleson, to approve hiring Alla Prima Art Services to appraise five Harvey Dunn paintings in the amount of \$1,187.69, all voting aye, motion carried.

**SURPLUS PROPERTY:** Motion was made by Cavanaugh, seconded by Jensen, to approve Gary Wolkow replacing Vona Leckey to appraise some miscellaneous property previously declared as surplus, all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Spader, to declare the Toshiba e-Studio 2330C Copier Serial No. FC-2330c NAD CIF 923444 as surplus to be recycled with Office Peeps; 15 ceiling lights as surplus; one (1) Reznor Natural Gas furnace as surplus; and nine (9) - Round Fluorescent Bulbs, 13 - 48" x 23" Fluorescent Bulbs, and nine (9) - 27" x 23 ½" Fluorescent Bulbs previously declared surplus to be disposed of, all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Spader, to approve Rick Warne, Jenny Todd, and Gary Wolkow to appraise the ceiling lights and furnace, all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Asleson, to approve the appraisal as presented for the following miscellaneous items: 14 - Wood Library Chairs \$25.00; one (1) Library Book Table \$10.00; one (1) Library Table with Dividers \$10.00; 15 -

Metal File Cabinets open & with drawers \$50.00; one (1) Safe with deposit boxes \$50.00; one (1) Wood Table \$5.00; 15 4' Ceiling Lights \$25.00; one (1) Reznor Natural Gas Furnace \$50.00, all voting aye, motion carried. Motion was made by Cavanaugh, seconded by Spader to approve advertising the miscellaneous items for sale with the condition that any items not sold by the next council meeting will be disposed of at the Rubble Site, all voting aye, motion carried.

**COUNCIL COMPUTERS:** Discussion was held regarding purchasing small laptop computers with the Covid grant dollars. Motion was made by Cavanaugh, seconded by Asleson, to approve purchasing the computers and submitting to the Covid grant for reimbursement, upon roll call vote, voting aye: Jensen, Asleson, and Cavanaugh, voting nay: Hansen, Spader, and Slater. Mayor Wolkow broke the tie vote with an aye vote. Motion carried.

**2018-2019 AUDIT PROPOSAL:** Motion was made by Cavanaugh, seconded by Hansen, to approve the audit engagement with Grant and Williams, Inc. for the 2018-2019 audit in the amount not to exceed \$27,000.00 plus \$130.00 per hour from the implementation of GASB 68 and the draft of the financial statements, plus up to \$600.00 for travel expenses, all voting aye, motion carried.

**AIRPORT PAVEMENT MAINTENANCE PROJECT:** Motion was made by Asleson, seconded by Hansen, to approve the 2020 Pavement Maintenance Agreement in the amount of \$155,855.16, and approve the Mayor as the designated official to sign the project documents, all voting aye, motion carried. This project is 100% federally funded.

**NOVEMBER CITY COUNCIL MEETING:** Due to the November regular meeting date being on a holiday, motion was made by Cavanaugh, seconded by Spader to approve holding the November regular council meeting on Tuesday, November 10, 2020 at 5:00 at the Event Center, all voting aye, motion carried.

**AIRPORT PAYMENTS:** Motion was made by Hansen, seconded by Jensen, to approve pay request #2 in the amount of \$2,265.97 to Helms & Associates for the turnaround's bidding phase, all voted aye, motion carried. These airport project expenses will be reimbursed by 100% from grant funding.

**WATER PROJECT PAYMENTS:** Motion was made by Cavanaugh, seconded by Hansen, to approve pay request #3 in the amount of \$665.00 to Clark Engineering for the water looping project, all voted aye, motion carried.

**FINANCIAL REPORTS:** Motion was made by Cavanaugh, seconded Hansen, to approve the September 2020 Cash Balances Report as presented by the Finance Officer, all voted aye, motion carried.

**OVERTIME:** Motion by Jensen, seconded by Asleson, to approve the overtime hours for the month of September as presented, all voted aye, motion carried.

**OTHER:** Other non-action items of discussion were as follows: 1) the September law enforcement report; 2) moving vehicles during snow removal notices; and 3) an estimate for air purifiers.

**ADJOURN:** There being no further business the meeting was adjourned on motion by Hansen, seconded by Asleson.

To comply with SDCL 6-1-10. Publication of Payroll information, the payroll changes were effective October 1, 2020 as follows: Street Superintendent, Ryan Petersen \$23.05/hour.

---

Gary Wolkow, Mayor

ATTEST:

---

Tracey Larson, Finance Officer

Published once at the approximate cost of \$ \_\_\_\_\_