

MINUTES

The Brandon City Council met in regular session at 6:00 p.m. on January 20, 2020 in the Council Chambers at 308 S. Main Avenue, Brandon, South Dakota. Present were Dana Clark, Vickie David, Barb Fish, Tim Jorgenson, David Kull, Chuck Parsons and Mayor Paul Lundberg. Others present were: City Administrator, Bryan Read; Finance Officer, Christina Smith; City Attorney, Lisa Marso; City Engineer, Tami Jansma; Police Chief; Joe Weir; Park Superintendent, Devin Coughlin; Golf Course Manager, Andrew Bauer and Public Works Director, Rollie Hoeke.

Alderswoman Clark moved Alderman Jorgenson seconded to approve the agenda. Motion carried.

Alderman Kull moved Alderswoman David seconded to approve the minutes of the January 2, 2020 briefing meeting, the minutes of the January 6, 2020 regular meeting and the minutes of the January 15, 2020 special meeting. Motion carried.

Alderswoman Fish moved Alderswoman Clark seconded to approve the following claims. Motion carried.

<u>VENDOR</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
AE2S	Professional Services	8,642.35
Alliance Communications	Utilities	2,434.04
Alternative HR Development	Professional Services	3,198.92
American General Contractors	Hired Repairs	30,631.60
Ambush Apparel	Supplies	403.00
Avera McKennan Hospital	Professional Services	1,971.50
Border State Electric	Repairs	872.10
Borns Group	Utility Billing	995.52
Boyce Law Firm, LLP	Professional Services	3,740.50
Brandon Valley Media Group	Publications	462.64
BV Area Chamber of Commerce	Registration Fees	2,820.00
Century Business Products	Supplies	178.36
Chesterman Company	GC Rental	50.00
Cintas	GC Linen Services	40.00
City of Sioux Falls Landfill	Fees	66.30
Civil Design, Inc.	Hired Repairs	417.50
Culligan Water Conditioning	Utilities	99.60
DirectTV	GC Utilities	43.95
Division of Motor Vehicles	Fees	60.00
Ellis & Eastern Company	Improvements	20,897.84
EnviroMaster, Inc.	GC Supplies	78.90
Ferguson Waterworks	Supplies	18.44
First Rate Excavate, Inc.	Improvements	36,582.17
H & W Contracting, LLC	Improvements	63,810.10
HDR Engineering, Inc.	Professional Services	143,257.44
Jack's Uniform's & Equipment	Police Supplies	476.43
Jaycox Implement, Inc.	Equipment	10,500.00

Kelly Eilers	Reimbursement	881.98
Larry Bixby	Reimbursement	143.31
Manley Tire & Oil Service	Repairs	467.24
Marv's Sanitary Service	Utilities	446.25
Metro Construction	Improvements	176,100.30
MidAmerican Energy	Utilities	2,281.85
Midwest Alarm Company, Inc.	Professional Services	86.52
Mills & Miller, Inc.	Supplies	5,561.43
Minnehaha Co. Economic Dev. Corp.	Annual Dues	28,000.00
Mobile Electronic Service, Inc.	Supplies	100.00
Orkin	Professional Services	520.00
Performance Press	Supplies	304.50
Pitney Bowes	Supplies	201.85
Recreation Supply Company	Equipment	6,141.80
R & L Supply	Repairs	25.91
SD DENR	Improvements	600.00
SD Department of Revenue	December Sales Tax	6,934.19
SD Licensed Beverage Dealers	Fees	100.00
SD One Call	Utilities	40.32
SD Ready Mixed Concrete Association	Registration	165.00
SD Unemployment Insurance Division	4th Quarter Contribution	226.26
Sioux Falls Ford	Repairs	991.46
Sioux Falls Humane Society	Professional Services	284.12
Sioux Falls Networks	Professional Services	355.00
Sprint	Improvements	22,808.75
Stockwell Engineers, Inc.	Improvements	16,401.85
The Wright Vacs	Supplies	20.00
Toro NSN	Service Agreement	155.00
US Postmaster	Utility Billing	1,310.26
Valley Springs Body Shop	Hired Repairs	65.00
Xcel Energy	Utilities	2,854.69
City Administration	January 5, 2020 Payroll	3,731.55
Finance Officer	January 5, 2020 Payroll	4,014.66
Government Buildings	January 5, 2020 Payroll	138.52
Police	January 5, 2020 Payroll	24,367.42
Building Inspections	January 5, 2020 Payroll	3,346.45
Engineer	January 5, 2020 Payroll	2,053.70
Street Department	January 5, 2020 Payroll	5,349.80
Park Department	January 5, 2020 Payroll	4,153.05
Water Department	January 5, 2020 Payroll	7,891.24
Sewer Department	January 5, 2020 Payroll	3,256.58
Golf Course Grounds	January 5, 2020 Payroll	1,683.71
Golf Course Lounge	January 5, 2020 Payroll	852.78
Golf Course Pro Shop	January 5, 2020 Payroll	3,399.63
Golf Course Community Room	January 5, 2020 Payroll	665.73
941 Payroll Taxes	January 5, 2020 Payroll	21,008.15
SD Retirement System Supplemental	January 5, 2020 Payroll	700.00
TASC Flex Plan	January 5, 2020 Payroll	624.96

Alderman Kull moved Alderman Parsons seconded to approve the consent calendar which contained the following items: a plat of Lot 2A in Tract 4 of Burkman Industrial Park 2nd Addition and a plat of Lot 1A in Block 13 of Brandon Terraces. Motion carried.

RE-ZONE OF 1304 E. SYLVAN CIRCLE & 101 N. PIPESTONE STREET

A public hearing was held, as advertised, to consider a Re-Zone Application for 1304 E. Sylvan Circle and 101 N. Pipestone Street. No comments received. No action taken.

ISG: UPDATE ON CITY HALL SPACE NEEDS STUDY

Representatives with ISG were present for discussion on the space needs study being done for City Hall, Police & Public Works Departments. No further action taken at this time.

ORDINANCE #598

Alderwoman Clark moved Alderwoman Fish seconded to give second reading to Ordinance #598: TITLE: AMENDING CHAPTER 6-7 AMBULANCE SERVICES OF THE BRANDON CITY CODE, changing 6-7-8 1. to a 95% respond time. A roll call vote showed Clark, David, Fish, Jorgenson, Parsons aye; Kull nay. Motion carried.

2019-2023 AUDIT SERVICES RECOMMENDATION

The Golf Course Committee, Parks & Recreation Committee, Public Safety Committee and Administration Committee reports were heard. Alderman Parsons moved Alderman Kull seconded to approve Quam, Berglin & Post, P.C. as the audit services for the next five years, 2019-2023. Motion carried.

ENGAGEMENT LETTER WITH QUAM & BERGLIN

Alderman Parsons moved Alderwoman Clark seconded to approve the engagement letter from Quam, Berglin & Post, P.C. for the 2019 audit in the amount of \$25,700.00. Motion carried.

SALARY REVIEW AND ADJUSTMENT

Alderman Kull moved Alderwoman Clark seconded to approve the salary adjustment for Karen Keyser, to step 1-2 on the wage scale, \$14.17 per hour, effective January 28, 2020. Motion carried.

RESOLUTION #04-20

Alderman Parsons moved Alderwoman David seconded to approve Resolution #04-20. A roll call vote showed Clark, David, Fish, Jorgenson, Kull, Parsons aye.. Motion carried.

RESOLUTION #04-20

WHEREAS, funds must be transferred to eliminate the negative cash balances.

THEREFORE BE IT RESOLVED by the City Council of Brandon, South Dakota, that the following transfer of funds is approved as of December 31, 2019:

<u>Transfer From</u>	<u>Transfer To</u>	<u>Amount</u>
General Fund #101	Golf Course Fund #615	\$340,662.56
General Fund #101	Core Area #540	\$577,004.85
General Fund #101	Rushmore Area #590	\$43,337.40

BE IT FURTHER RESOLVED by the City Council of Brandon, South Dakota, that the following transfer of funds is approved in 2020 when the bonds are received for the Core Area Project.

<u>Transfer From</u>	<u>Transfer To</u>	<u>Amount</u>
Core Area #540	General Fund #101	\$577,004.85

Dated this 20th day of January, 2020.

Paul J Lundberg, Mayor

ATTEST:

Christina Smith, Finance Officer

(SEAL)

ENGAGEMENT LETTER WITH DA DAVIDSON

Alderman Parsons moved Alderwoman Clark seconded to approve the letter of engagement from DA Davidson for water revenue bonds for well #8. Motion carried.

RESOLUTION #05-20

Alderwoman Clark moved Alderwoman David seconded to approve Resolution #05-20. A roll call vote showed Clark, David, Fish, Jorgenson, Kull, Parsons aye. Motion carried.

RESOLUTION NO. 05-20

RESOLUTION GIVING APPROVAL TO THE ISSUANCE AND SALE OF WATER UTILITY REVENUE BONDS, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION DOLLARS (\$1,000,000) OF THE CITY OF BRANDON, SOUTH DAKOTA, THE APPROVAL OF THE FORM OF THE BONDS, THE PLEDGE OF CERTAIN REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE BONDS, AND THE CREATION OF SPECIAL FUNDS AND ACCOUNTS FOR THE

ADMINISTRATION OF FUNDS 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, and industrial purposes; or any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized to issue revenue bonds to fund improvements, extensions and additions to its water system by SDCL 9-40-6 and SDCL Chapter 6-8B and is authorized to pledge the net income or revenues from the system to secure such bonds; and,

WHEREAS, the City of Brandon, South Dakota (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 water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its water system; and,

WHEREAS, the City Council has determined that is necessary and in the best interest of the City to issue its **Water Utility Revenue Bonds**, Series 2020 (as hereinafter described, the “Bonds”), for the purpose of providing funds to pay for the construction costs for Well #8 Pump House and Transmission Line (as hereinafter described, the “Project”), and to pay the costs of issuance of the Bonds.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRANDON, SOUTH DAKOTA, AS FOLLOWS:

ARTICLE I. DEFINITIONS

Section 1.1. Definition of Terms.

In addition to the words and terms elsewhere defined in this Bond Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings, unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” means collectively SDCL Chapter 6-8B and Title 9-40, as amended.

“Additional Bonds” means the additional parity bonds authorized to be issued by the City.

“Authorized Officer of the City” means the Mayor and the Finance Officer, or, in the case of any act to be performed or duty to be discharged, any other member, officer, or employee of the City

then authorized to perform such act or discharge such duty.

“Bonds” means collectively not to exceed \$1,000,000 in aggregate principal amount of Water Utility Revenue Bonds, Series 2020, dated the Closing Date, or such other designation or date as shall be determined by the City Council pursuant to Section 8.1 hereof, authorized and issued under this Resolution.

“Bond Counsel” means Meierhenry Sargent LLP, a firm of attorneys recognized as having experience in matters relating to the issuance of state or local governmental obligations.

“Bond Payment Date” means each date on which interest and/or principal shall be payable on the Bonds so long as any of the Bonds shall be outstanding.

“Bond Purchase Agreement” means the Bond Purchase Agreement authorized pursuant to and described in Section 8.1 hereof by and between the City and the Underwriter.

“Bond Resolution” means this Resolution as it may be amended from time to time.

“Bondholder”, “Holder” and “Registered Owner” means the registered owner of a Bond, including any nominee of a Depository.

“Book-Entry Form” or “Book-Entry System” means a form or system, as applicable, under which physical bond certificates in fully registered form are issued to a Depository or to its nominee as Registered Owner, with the certificated bonds being held by and “immobilized” in the custody of such Depository, and under which records maintained by persons, other than the City or the Registration Agent, constitute the written record that identifies, and records the transfer of the beneficial “book-entry” interests in those bonds.

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

“City Council” means the City Council of the City elected pursuant to the provisions of the City’s charter.

“Closing Date” means the date of delivery and payment of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Department of Treasury promulgated thereunder as in effect on the date of issuance of the Bonds.

“Depository” means any securities depository that is a clearing agency under federal laws operating and maintaining, with its participants or otherwise, a Book-Entry System, including, but not limited to DTC.

“DTC” means the Depository Trust Company, a limited purpose company organized under the laws of the State of New York, and its successors and assigns.

“DTC Participant(s)” means securities brokers and dealers, banks, trust companies and clearing corporations that have access to the DTC system.

“Finance Officer” means the Finance Officer of the City appointed pursuant to the provisions of South Dakota Codified Laws Title 9 or, in the absence of such appointment or in the event the person so appointed is unable or incapable of acting in such capacity, the person appointed by the Mayor and approved by the City Council to perform the duties otherwise performed by the Finance Officer, or his/her designee.

“Interest Payment Date” means each date on which interest shall be payable on the Bonds so long as any of the Bonds shall be outstanding.

“Letter of Representation” means the Blanket Issuer Letter of Representations to DTC of the City.

“Mayor” means the Mayor elected pursuant to the provisions of the SDCL 9-13 or his or her designee acting on his or her behalf pursuant to the Charter.

“Official Statement” and “Preliminary Official Statement” means that Official Statement and Preliminary Official Statement described in Section 8.2 hereof pertaining to the sale of the Bonds.

“Original Issue Discount or OID” means an amount by which the par value of a security exceeds its public offering price at the time of its original issuance.

“Original Issue Premium or OIP” means the amount by which the public offering price of a security at the time of its original issuance exceeds its par value.

“Outstanding,” “Bonds Outstanding,” or “Outstanding Bonds” means, as of a particular date all Bonds issued and delivered under this Bond Resolution except: (1) any Bond paid or redeemed or otherwise canceled by the City at or before such date; (2) any Bond for the payment of which cash, equal to the principal amount thereof with interest to date of maturity, shall have theretofore been deposited prior to maturity by the City for the benefit of the Owner thereof; (3) any Bond for the redemption of which cash, equal to the redemption price thereof with interest to the redemption date, shall have theretofore been deposited with the Registration Agent and for which notice of redemption shall have been mailed in accordance with this Bond Resolution; (4) any Bond in lieu of or in substitution for which another Bond shall have been delivered pursuant to this Resolution, unless proof satisfactory to the City is presented that any Bond, for which a Bond in lieu of or in substitution therefor shall have been delivered, is held by a bona fide purchaser, as that term is defined in Article 8 of the Uniform Commercial Code of the State, as amended, in which case both the Bond in lieu of or in substitution for which a new Bond has been delivered and such new Bond so delivered therefor shall be deemed Outstanding; and, (5) any Bond deemed paid under the provisions of Article VII of this Resolution, except that any such Bond shall be considered Outstanding until the maturity or redemption date thereof only for

the purposes of being exchanged, transferred, or registered.

“Paying Agent” means U.S. Bank National Association, St. Paul, Minnesota or its successor or successors hereafter appointed in the manner provided in Article VI hereof.

“Person” means an individual, partnership, corporation, trust, or unincorporated organization, or a governmental entity or agency or political subdivision thereof.

“Placement Agent” means D.A. Davidson & Co., Omaha, Nebraska.

“Pledged Revenues” means the net income from the System which shall be the excess of revenues or income remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements, and operation including the interest on any general obligation bonds authorized to construct or acquire or improve such original utility and including the necessary debt service funds required to be provided for the retirement of said bond issues, and including the interest and debt service funds required annually to be paid or set aside on any refunding bonds issued to refund such general obligation bonds issued for the original construction or acquisition or improvement of said utility, so extended, added to, or improved.

“President” means the President of the City Council who may act for the Mayor in the absence of the Mayor.

“Project” means the construction of Well #8 Pump House and Transmission Line.

“Rate Covenant” means the City’s agreement that it will establish rates, special charges or surcharges sufficient to produce in each fiscal year net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements, operation and maintaining the reserve, in an amount not less than 110% of the debt service requirements on the Bonds.

“Rate Ordinance” means, collectively, the ordinances of the City adopted by the City Council establishing rates for the System

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

“Record Date” means the dates set forth in the Bond Purchase Agreement.

“Registration Agent” means U.S. Bank National Association, St. Paul, Minnesota or its successor or successors hereafter appointed in the manner provided in Article VI hereof.

“Reserve Requirement” means an amount, if required, which will comply with the Internal Revenue Regulations specifying the maximum amount in a reserve fund permitted to be invested without regard to investment yield.

“Resolution” means this Bond Resolution.

“Schedule” means the schedule which indicates the principal and interest payments on the Bonds.

“Series 2020 Bonds” means not to exceed \$1,000,000 in aggregate principal amount of Water Utility Revenue Bonds, Series 2020.

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

“Underwriter” means D.A. Davidson & Co., Omaha, Nebraska acting for and on behalf of itself and such securities dealers as it may designate.

Section 1.2. References to Resolution. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Bond Resolution as a whole.

Section 1.3. References to Articles, Sections, Etc. References to Articles, Sections, and other subdivisions of this Bond Resolution are to the designated Articles, Sections, and other subdivisions of this Bond Resolution as originally adopted.

Section 1.4. Headings. The headings of this Bond Resolution are for convenience only and shall not define or limit the provisions hereof.

ARTICLE II. FINDINGS

Section 2.1. It is hereby found and determined by the City Council as follows:

- (a) The City desires and hereby determines it is necessary to construct improvements to its water facilities within its System.
- (b) The Bonds constitute constitutional debt under Section 13 Section 4 of the South Dakota constitution.
- (c) The Bonds, together with the interest thereon, shall not constitute a charge against the City's credit or taxing power, but shall be a limited obligation of the City payable solely out of segregated Pledged Revenues.
- (d) It is advantageous and in the best interests of the City to fund the Project with the proceeds of the Bonds.
- (e) The City hereby determines that all limitations upon the issuance of Bonds have been met and the Bonds are being authorized, issued and sold in accordance with the provisions of Act.

ARTICLE III. AUTHORIZATION, PLEDGE, RATES AND CHARGES AND ACCOUNTS

Section 3.1. Authorization. In order to pay for the (i) construction costs for the Project and (ii) costs incident to the sale and issuance of the Bonds, there shall be issued pursuant to, and in accordance with, the provisions of the Act, this Bond Resolution, and other applicable provisions of law, Water Utility Revenue Bonds of the City in the aggregate principal amount of not to exceed \$1,000,000.

Section 3.2. Pledge of Revenues. *The Bonds, 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 System Debt Service Account, which payments, revenues and receipts are hereby pledged and assigned for the equal and ratable payments of the Bonds, together with other obligations issued and outstanding on parity therewith, and shall be used for no other purpose than to pay the principal of and interest on the Bonds and such other obligations, except as may be otherwise expressly authorized (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 System or establish special charges or surcharges which will be sufficient to provide for the payments upon the Bonds 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 satisfaction of the Rate Covenant, 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 Bonds, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene any covenant of the City with respect thereto.*

Section 3.3. Rates and collection. The rates set forth in the Rate Ordinance will be sufficient to produce revenue in amounts necessary to meet the Rate Covenant and pay principal of and interest on the Bonds when due, together with other obligations issued and outstanding on parity therewith.

Section 3.4. System Fund Accounts. *For the purpose of application and proper allocation of the income of the System and to secure the payment of principal of and interest on the Bonds, the following funds shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Bonds:*

(a) System Revenue Account. *There shall be deposited in the System Revenue Account as received the entire gross revenues derived from the operation of the System collected pursuant to the Rate Ordinance including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys in the System Revenue Account shall be transferred periodically into separate funds and accounts as provided below.*

(b) Operation and Maintenance Account. There has been established the General Operation

and Maintenance Account. Out of the remaining revenues of the System Revenue Account after application described in (c), (d) and (e) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the System in good repair and working order. The term current expenses shall be construed to include all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, including without limitation salaries, supplies and rent, but shall exclude the General Depreciation Account and System Debt Service Account.

- (c) System Debt Service Account. Out of the revenues in the System Revenue Account, there shall be set aside no later than the last day of each month into the fund designated the System Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal and interest on, the Bonds, any other obligations issued and outstanding on a parity therewith and any reserve determined by the City's governing body to be necessary. Moneys in the System Debt Service Account also shall be used to pay the usual and customary charges of the Paying Agent.
- (d) Reserve Account. If required by the Underwriter, Placement Agent or the Rating Agency, if any, there is hereby created and established a "Reserve Account." There shall be credited to the Reserve Account from the proceeds of the Bonds, an amount equal to the Reserve Requirement. Thereafter, in the event that the amount on deposit in the Reserve Account shall thereafter fall below the Reserve Requirement, additional deposits shall be made from the Gross Revenues to the Reserve Account until the Reserve Requirement is again reached. Upon the issuance of any Additional Bonds, the Reserve Requirement established in this section shall be increased to an amount equal to the combined maximum annual debt service on the Additional Bonds. The balance required shall be funded on the delivery date of the Additional Bonds. Moneys credited to the Reserve Account may be used only for the payment of principal of and interest on the Additional Bonds and shall be used only in the event that there are insufficient moneys in the System Revenue Account to meet such principal and interest payments promptly when due. The interest from any investment of the Reserve Account may be transferred from time to time to the Project Fund (as established in Section 8.3(a) hereof), provided that after completion of the Project such interest shall be transferred to the System Revenue Account. No transfer of investment income shall be made from the Reserve Account at any time when the balance therein is less than the Reserve Requirement. Such investments shall be subject to the limitations of South Dakota law.
- (e) Depreciation Account. There has been established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the City Council to be a proper and adequate amount for repair and depreciation of the System.
- (f) Surplus Account. There has been established the General Surplus Account. Revenues

remaining in the System 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 credited to the General Surplus Account. If at any time there shall exist any default in making any periodic transfer to the System Debt Service Account, the City Council shall authorize the Finance Officer to rectify such default so far as possible by the transfer of money from the General 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 System Debt Service Account, moneys in the General Surplus Account from time to time may be used for any of the following purposes and not otherwise:

1. To redeem and prepay the Bonds when and as such Bonds become prepayable according to their terms;
2. To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the System Debt Service Account and the General 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:
3. 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
4. To be used for any other authorized municipal purpose designated by the City Council.
5. No moneys shall at any time be transferred from the General 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.

ARTICLE IV. FORM, TERMS, EXECUTION, AND TRANSFER OF BONDS

Section 4.1. Authorized Bonds. The aggregate principal amount of Bonds that may be issued under this Bond Resolution shall not exceed One Million Dollars (\$1,000,000).

Section 4.2. Form of Bonds; Execution.

(a) The Bonds are issuable only as fully registered Bonds, without coupons, in the denomination of Five Thousand Dollars (\$5,000) or any integral multiple thereof (but no single Bond shall represent installments of principal maturing on more than one date). All Bonds issued under this Resolution shall be substantially in the form set forth in Exhibit A attached hereto and on file with the Finance Officer and open to public inspection at regular business hours, and by this reference incorporated herein as fully as though copied.

(b) The Bonds shall be executed in such manner as may be prescribed by applicable law in the name and on behalf of the City with the manual or facsimile signature of the Mayor, attested by

the manual or facsimile signature of the Finance Officer, and approved as to form and countersigned by a Resident Attorney by his manual or facsimile signature.

(c) In the event any officer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such manual or such facsimile signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. Any Bond may bear the facsimile signature of, or may be manually signed by, such individuals who, at the actual time of the execution of such Bond, were the proper officers of the City to sign such Bond, although on the date of the adoption by the City of this Resolution, such individuals may not have been such officers.

Section 4.3. Maturities, Interest Rates, and Certain Other Provisions of Bonds.

(a) The Bonds shall become due and payable as set forth in the Bond Purchase Agreement.

(b) The Bonds shall be designated “Water Utility Revenue Bonds, Series 2020” or such other designation as shall be determined by the City Council pursuant to Section 8.1 hereof. The Bonds shall bear interest from their date or from the most recent interest payment date to which interest has been paid or duly provided for, until the principal amount of the Bond is paid, such interest (computed upon the basis of a 360-day year of twelve 30-day months) being payable on Interest Payment Dates. Interest on each Bond shall be paid by wire transfer, check or draft of the Paying Agent, payable in lawful money of the United States of America, to the person in whose name such Bond is registered at the close of business on the Record Dates. The principal of the Bond shall be payable in lawful money of the United States of America at the principal office of the Paying Agent on the Bond Payment Date. (c) The Registration Agent shall make all interest payments with respect to the Bonds on each interest payment date directly to the registered owners as shown on the Bond registration records maintained by the Registration Agent as of the close of business on the Record Date by wire transfer, check or draft mailed to such owners at their addresses shown on said Bond registration records, except for final payment, the presentation or surrender of such registered Bonds, and all such payments shall discharge the obligations of the City in respect of such Bonds to the extent of the payments so made. Payment of principal of and premium, if any, on the Bonds shall be made upon presentation and surrender of such Bonds to the Registration Agent as the same shall become due and payable.

4.4. Additional Bonds. As permitted by SDCL 9-40-8 and SDCL 9-40-9, Additional Bonds payable from Pledged Revenues may be issued on a parity basis provided that Pledged Revenues for the Fiscal Year immediately preceding the issuance of such additional obligations must be equal to not less than 1.25 times the highest annual principal and interest requirement on the Bonds and parity obligations, 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. Should the City increase rates and charges made effective prior to the issuance of such additional obligations, then the Pledged Revenues for the purpose of such computation shall include the additional revenues. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Bonds.

Section 4.5. Negotiability of Bonds. All Bonds issued under this Resolution shall be negotiable, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds.

Section 4.6. Registration, Transfer and Exchange of Bonds. The Bonds are transferable only by presentation to the Registration Agent by the registered owner, or his legal representative duly authorized in writing, of the registered Bond(s) to be transferred with the form of assignment on the reverse side thereof completed in full and signed with the name of the registered owner as it appears upon the face of the Bond(s) accompanied by appropriate documentation necessary to prove the legal capacity of any legal representative of the registered owner. Upon receipt of the Bond(s) in such form and with such documentation, if any, the Registration Agent shall issue a new Bond or Bonds to the assignee(s) in \$5,000 denominations, or integral multiples thereof, as requested by the registered owner requesting transfer. The Registration Agent shall not be required to transfer or exchange any Bond during the period commencing on a Record Date and ending on the corresponding interest payment date of such Bond, nor to transfer or exchange any Bond after the publication of notice calling such Bond for redemption has been made, nor to transfer or exchange any Bond during the period following the receipt of instructions from the City to call such Bond for redemption; provided, the Registration Agent, at its option, may make transfers after any of said dates. No charge shall be made to any registered owner for the privilege of transferring any Bond, provided that any transfer tax relating to such transaction shall be paid by the registered owner requesting transfer. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and neither the City nor the Registration Agent shall be affected by any notice to the contrary whether or not any payments due on the Bonds shall be overdue. Bonds, upon surrender to the Registration Agent, may, at the option of the registered owner, be exchanged for an equal aggregate principal amount of Bonds of the same maturity in any authorized denomination or denominations.

Except as otherwise provided in this subsection, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC, which will act as securities depository for the Bonds. References in this Section to a Bond or the Bonds shall be construed to mean the Bond or the Bonds that are held under the Book-Entry System. One Bond for each maturity shall be issued to DTC and immobilized in its custody. Unless otherwise provided herein, a Book-Entry System shall be employed, evidencing ownership of the Bonds in authorized denominations, with transfers of beneficial ownership affected on the records of DTC and the DTC Participants pursuant to rules and procedures established by DTC.

Each DTC Participant shall be credited in the records of DTC with the amount of such DTC Participant's interest in the Bonds. Beneficial ownership interests in the Bonds may be purchased by or through DTC Participants. The holders of these beneficial ownership interests are herein referred to as the "Beneficial Owners." The Beneficial Owners shall not receive the Bonds representing their beneficial ownership interests. The ownership interests of each Beneficial Owner shall be recorded through the records of the DTC Participant from which such Beneficial Owner purchased its Bonds. Transfers of ownership interests in the Bonds shall be accomplished by book entries made by DTC and, in turn, by DTC Participants acting on behalf of Beneficial

Owners. SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE BONDS, THE REGISTRATION AGENT SHALL TREAT CEDE & CO., AS THE ONLY HOLDER OF THE BONDS FOR ALL PURPOSES UNDER THIS RESOLUTION, INCLUDING RECEIPT OF ALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, RECEIPT OF NOTICES, VOTING AND REQUESTING OR DIRECTING THE REGISTRATION AGENT TO TAKE OR NOT TO TAKE, OR CONSENTING TO, CERTAIN ACTIONS UNDER THIS BOND RESOLUTION.

Payments of principal, interest, and redemption premium, if any, with respect to the Bonds, so long as DTC is the only owner of the Bonds, shall be paid by the Registration Agent directly to DTC or its nominee, Cede & Co., as provided in the Letter of Representation. DTC shall remit such payments to DTC Participants, and such payments thereafter shall be paid by DTC Participants to the Beneficial Owners. Neither the City nor the Registration Agent shall be responsible or liable for payment by DTC or DTC Participants, for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC or DTC Participants.

In the event that (1) DTC determines not to continue to act as securities depository for the Bonds or (2) the City determines that the continuation of the Book-Entry System of evidence and transfer of ownership of the Bonds would adversely affect their interests or the interests of the Beneficial Owners of the Bonds, the City may discontinue the Book-Entry System with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City shall cause the Registration Agent to authenticate and deliver replacement Bonds in the form of fully registered Bonds to each Beneficial Owner.

NEITHER THE CITY NOR THE REGISTRATION AGENT SHALL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO ANY DTC PARTICIPANT OR ANY BENEFICIAL OWNER WITH RESPECT TO (i) THE BONDS; (ii) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (iii) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; (iv) THE DELIVERY OR TIMELINESS OF DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE DUE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS BOND RESOLUTION TO BE GIVEN TO BENEFICIAL OWNERS, (v) THE SELECTION OF BENEFICIAL OWNERS TO RECEIVE PAYMENTS IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE BONDS; OR (vi) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC, OR ITS NOMINEE, CEDE & CO., AS OWNER.

SO LONG AS A BOOK-ENTRY SYSTEM OF EVIDENCE OF TRANSFER OF OWNERSHIP OF ALL THE BONDS IS MAINTAINED IN ACCORDANCE HEREWITH, THE PROVISIONS OF THIS RESOLUTION RELATING TO THE DELIVERY OF PHYSICAL BOND CERTIFICATES SHALL BE DEEMED INAPPLICABLE OR BE OTHERWISE SO CONSTRUED AS TO GIVE FULL EFFECT TO SUCH BOOK-ENTRY SYSTEM. IF THE PROVISIONS OF THE LETTER OF REPRESENTATION SHALL BE IN

CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION AS SAID PROVISIONS RELATE TO DTC, THE PROVISIONS OF THE LETTER OF REPRESENTATION SHALL CONTROL.

Section 4.7. Mutilated, Lost, Stolen, or Destroyed Bonds.

(a) In the event any Bond is mutilated, lost, stolen, or destroyed, the City may execute, and upon the request of an Authorized Officer of the City the Registration Agent shall authenticate and deliver, a new Bond of like maturity, interest rate, and principal amount, and bearing the same number (but with appropriate designation indicating that such new Bond is a replacement Bond) as the mutilated, destroyed, lost, or stolen Bond, in exchange for the mutilated Bond or in substitution for the Bond so destroyed, lost, or stolen. In every case of exchange or substitution, the Bondholder shall furnish to the City and the Registration Agent: (1) such security or indemnity as may be required by them to save each of them harmless from all risks, however remote; and, (2) evidence to their satisfaction of the mutilation, destruction, loss, or theft of the subject Bond and the ownership thereof. Upon the issuance of any Bond upon such exchange or substitution, the City and the Registration Agent may require the Owner thereof to pay a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including printing costs and counsel fees, of the City and the Registration Agent. In the event any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost, or stolen, the City may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Bond) if the Owner thereof shall pay all costs and expenses, including attorney's fees, incurred by the City and the Registration Agent in connection herewith, as well as a sum sufficient to defray any tax or other governmental charge that may be imposed in relation thereto and shall furnish to the City and the Registration Agent such security or indemnity as they may require to save them harmless and evidence to the satisfaction of the City and the Registration Agent the mutilation, destruction, loss, or theft of such Bond and of the ownership thereof.

(b) Every Bond issued pursuant to the provisions of this section shall constitute an additional contractual obligation of the City (whether or not the destroyed, lost, or stolen Bond shall be found at any time to be enforceable) and shall be entitled to all the benefits of this Bond Resolution equally and proportionately with any and all other Bonds duly issued under this Bond Resolution.

(c) All Bonds shall be held and owned upon the express condition that the provisions of this Section are exclusive, with respect to the replacement or payment of mutilated, destroyed, lost, or stolen Bonds, and, to the maximum extent legally permissible, shall preclude all other rights or remedies, notwithstanding any law or statute now existing or hereafter enacted to the contrary.

Section 4.8. Authentication. The Registration Agent is hereby authorized to authenticate and deliver the Bonds to the Underwriter, if applicable, or as it may designate upon receipt by the City of the proceeds of the sale thereof, to authenticate and deliver Bonds in exchange for Bonds of the same principal amount delivered for transfer upon receipt of the Bond(s) to be transferred in proper form with proper documentation as hereinabove described. The Bonds shall not be

valid for any purpose unless authenticated by the Registration Agent by the manual signature of an officer thereof on the certificate set forth herein on the Bond form.

Section 4.9. Qualification for DTC. The Registration Agent is hereby authorized to take such actions as may be necessary from time to time to qualify and maintain the Bonds for deposit with DTC, including but not limited to, wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by the DTC (or any of its designees identified to the Registration Agent) by overnight delivery, courier service, telegram, teletype or other similar means of communication. No such arrangements with DTC may adversely affect the interest of any of the Owners of the Bonds, provided, however, that the Registration Agent shall not be liable with respect to any such arrangements it may make pursuant to this section.

Section 4.10. Underwriter or Placement Agent. An Authorized Officer of the City is hereby authorized to retain D.A. Davidson & Co. as (a) Underwriter in connection with a public offering of the Bonds or (b) Placement Agent in connection with a private placement of the Bonds, all in accordance with Section 8.11 of this Resolution.

Section 4.11. Bond Counsel. The Mayor and the Finance Officer are authorized to retain Meierhenry Sargent LLP as Bond Counsel upon such terms as they approve.

Section 4.12. Rating Agency. The City is authorized to enter into an agreement with a Rating Agency as may be required under the Bond Purchase Agreement. Any terms or conditions of the Rating Agency shall be attached to this Resolution and incorporated herein as if stated in full.

Section 4.13. Dissemination Agent. The City authorizes the Authorized Officer of the District to retain a dissemination agent with regard to the written undertaking authorized in Section 9.7 hereof.

ARTICLE V. REDEMPTION OF BONDS PRIOR TO MATURITY

Section 5.1. Optional Redemption. The Bonds shall be subject to optional redemption as set forth in the Bond Purchase Agreement.

ARTICLE VI. REGISTRATION AGENT

Section 6.1. Appointment and Acceptance of Duties.

(a) The City hereby authorizes the Finance Officer to appoint the Registration and Paying Agent with respect to the Bonds and authorizes and directs the Registration Agent to maintain bond registration records with respect to the Bonds, to authenticate and deliver the Bonds as provided herein, either at original issuance, upon transfer, or as otherwise directed by the City, to effect transfers of the Bonds, to give all notices of redemption as required herein, to make all payments of principal and interest with respect to the Bonds as provided herein, to cancel and destroy Bonds which have been paid at maturity or upon earlier redemption or submitted for exchange or

transfer and to furnish the City at least annually an audit confirmation of Bonds paid, Bonds Outstanding and payments made with respect to interest on the Bonds. The Mayor and the Finance Officer, or either of them is hereby authorized to execute and the Finance Officer is hereby authorized to attest such written agreement between the City and the Registration Agent as they shall deem necessary or proper with respect to the obligations, duties and rights of the Registration Agent. The payment of all reasonable fees and expenses of the Registration Agent for the discharge of its duties and obligations hereunder or under any such agreement is hereby authorized and directed.

Section 6.2. Permitted Acts and Functions. The Registration Agent may become the Owner of any Bonds, with the same rights as it would have if it were not a Registration Agent. The Registration Agent may act as an underwriter or fiscal agent in connection with the sale of the Bonds or of any other securities offered or issued by the City.

Section 6.3. Resignation or Removal of the Registration Agent and Appointment of Successors.

(a) The Registration Agent may at any time resign and be discharged of the duties and obligations created by the Bond Resolution by giving at least sixty (60) calendar days' written notice to the Finance Officer. The Registration Agent may be removed at any time by the Finance Officer, provided that such removal does not constitute a breach of any contractual agreement with any such Registration Agent, by filing written notice of such removal with such Registration Agent. Any successor Registration Agent shall be appointed by the Mayor and shall be a trust company or a bank having the powers of a trust company, having a combined capital, surplus, and undivided profits aggregating at least Seventy-Five Million Dollars (\$75,000,000), willing to accept the office of Registration Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Bond Resolution.

(b) In the event of the resignation or removal of the Registration Agent, such Registration Agent shall pay over, assign and deliver any monies and securities held by it as Registration Agent, and all books and records and other properties held by it as Registration Agent, to its successor, or if there be no successor then appointed, to the Finance Officer until such successor be appointed.

Section 6.4. Merger or Consolidation of Registration Agent. Any corporation or association into which the Registration Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation, or transfer to which it is a party shall be and become successor Registration Agent hereunder and shall be vested with all the trusts, powers, discretion, immunities, privileges, and other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein contained to the contrary notwithstanding. Upon any such conversion, merger, consolidation, sale or transfer, the Finance Officer shall have the right and option, upon notice to such converted, merged, consolidated or acquiring entity, to remove such entity and appoint a successor thereto pursuant to the procedures and requirements set forth in Section 6.3 hereof.

ARTICLE VII. DEFEASANCE OF BONDS

Section 7.1. Defeasance of Bonds. If the City shall pay and discharge the indebtedness evidenced by any of the Bonds in any one or more of the following ways, to wit:

(a) By paying or causing to be paid, by deposit of sufficient funds as and when required with the Registration Agent, the principal of and interest on such Bonds as and when the same become due and payable;

(b) By depositing or causing to be deposited with any trust company or financial institution whose deposits are insured by the Federal Deposit Insurance Corporation or similar federal agency and which has trust powers (“an Agent”; which Agent may be the Registration Agent) in trust or escrow, on or before the date of maturity or redemption, sufficient money or Federal Obligations, as hereafter defined, the principal of and interest on which, when due and payable, will provide sufficient moneys to pay or redeem such Bonds and to pay premium, if any, and interest thereon when due until the maturity or redemption date (provided, if such Bonds are to be redeemed prior to maturity thereof, proper notice of such redemption shall have been given or adequate provision shall have been made for the giving of such notice);

(c) By delivering such Bonds to the Registration Agent, for cancellation by it; and if the City shall also pay or cause to be paid all other sums payable hereunder by the City with respect to such Bonds, or make adequate provision therefor, and by resolution of the Governing Body instruct any such Escrow Agent to pay amounts when and as required to the Registration Agent for the payment of principal of and interest and redemption premiums, if any, on such Bonds when due, then and in that case the indebtedness evidenced by such Bonds shall be discharged and satisfied and all covenants, agreements and obligations of the City to the holders of such Bonds shall be fully discharged and satisfied and shall thereupon cease, terminate and become void.

If the City shall pay and discharge the indebtedness evidenced by any of the Bonds in the manner provided in either clause (a) or clause (b) above, then the registered owners thereof shall thereafter be entitled only to payment out of the money or Federal Obligations deposited as aforesaid.

Except as otherwise provided in this Section, neither Federal Obligations nor moneys deposited with the Registration Agent pursuant to this Section nor principal or interest payments on any such Federal Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal and premium, if any, and interest on said Bonds; provided that any cash received from such principal or interest payments on such Federal Obligations deposited with the Registration Agent, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the City as received by the Registration Agent and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Federal Obligations maturing at times and in amounts sufficient to pay when due the principal and premium, if any, and interest to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the

Registration Agent. For the purposes of this Section, Federal Obligations shall mean direct obligations of, or obligations, the principal of and interest on which are guaranteed by, the United States of America, or any agency thereof, obligations of any agency or instrumentality of the United States or any other obligations at the time of the purchase thereof are permitted investments under South Dakota Law for the purposes described in this Section, which Bonds or other obligations shall not be subject to redemption prior to their maturity other than at the option of the registered owner thereof.

ARTICLE VIII. SALE OF BONDS, DEPOSIT OF PROCEEDS AND TAX MATTERS

Section 8.1. Sale of Bonds. In the case of a public offering of the Bonds, the Bonds shall be sold to the Underwriter at a price to be set forth in the Bond Purchase Agreement. In the case of a private placement of the Bonds, the Bonds shall be placed with a bank, financial institution or other purchaser as identified by the Placement Agent and shall be sold at a price as determined by an Authorized Officer of the City. The Mayor and the Finance Officer, or either of them, in consultation with the Underwriter or the Placement Agent, as applicable, are authorized to make such changes in the structuring of the terms and sale of the Bonds as they shall deem necessary. The form of the Bond set forth in Exhibit A attached hereto shall be conformed to reflect any changes, if any, as hereinbefore mentioned. The Mayor and the President, or either of them, are hereby authorized to execute and the Finance Officer is authorized to attest the Bond Purchase Agreement with the Underwriter providing for the purchase and sale of the Bonds, if applicable. The Bond Purchase Agreement, if applicable, shall be in form and content acceptable to the Mayor and Finance Officer, the execution thereof by either of them to constitute conclusive evidence thereof; provided the Bond Purchase Agreement effects the sale of the Bonds in accordance with the provisions of this Resolution, and is not inconsistent with the terms hereof. The Mayor and the Finance Officer, or either of them, are authorized to cause the Bonds to be authenticated and delivered by the Registration Agent to the Underwriter, if applicable, and to execute, publish, and deliver all certificates and documents, including the Official Statement, and closing certificates and documents, as they shall deem necessary in connection with the sale and delivery of the Bonds.

Section 8.2. Official Statement. If the Bonds are sold publicly, the Mayor, Finance Officer, and the Underwriter are hereby authorized and directed to provide for the preparation and distribution of a Preliminary Official Statement describing the Bonds (the "Preliminary Official Statement"). After the Bonds have been sold, the Mayor and the Finance Officer shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement for purposes of Rule 15c2-12(b)(1) of the Securities and Exchange Commission. To comply with paragraph (b)(3) of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule") and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board, the City agrees to deliver to the Underwriter, the Official Statement (which shall be a final official statement, as such term is defined in the Rule, as of its date) in an electronic format as prescribed by the MSRB. In the event the Bonds are privately placed with the assistance of the Placement Agent, the Mayor, Finance Officer, and the Placement Agent are hereby authorized to assist in the

preparation of a private placement memorandum, term sheet or other disclosure document relating to the placement of the Bonds.

Section 8.3. Disposition of Bond Proceeds. The proceeds of the sale of the Bonds shall be disbursed as follows:

(a) An amount which, together with other legally available funds of the City, if any, and investment earnings thereon and on said Bond proceeds shall be deposited in the Project Fund, which is hereby established, which moneys shall be used to pay the costs of the Project.

(b) The remaining proceeds of the sale of the Bonds shall be used to pay the costs of issuance and sale of the Bonds including necessary legal, accounting and fiscal expenses, printing, engraving, advertising and similar expenses, administrative and clerical costs, rating agency fees, Registrar fees, and other necessary miscellaneous expenses incurred in connection with the issuance and sale of the Bonds. Any funds remaining after payment of said expenses shall be used to pay interest on the Bonds on the first interest payment date following delivery of the Bonds.

Section 8.4. Tax Matters.

(a) The City covenants and agrees with the registered owners from time to time of the Series 2020 Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2020 Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the basic interest on the Series 2020 Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

(b) The Mayor and the Finance Officer, being the officers of the City charged with the responsibility for issuing the Series 2020 Bonds pursuant to this Resolution, are hereby authorized and directed to execute and deliver to the Underwriter or the Placement Agent, as applicable, thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2020 Bonds, it is reasonably expected that the proceeds of the Series 2020 Bonds will be used in a manner that would not cause the Series 2020 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

(c) The City hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

(d) The City shall file with the Secretary of the Treasury a statement concerning the Series 2020 Bonds containing the information required by Section 149(e) of the Code.

(e) Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City hereby designates the Series 2020

Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code. The City hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including “qualified 501 (c)(3) Bonds” but excluding other “private activity Bonds,” as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the City and all “subordinate entities” of the City in 2020 in an amount greater than \$10,000,000.

ARTICLE IX. MISCELLANEOUS

Section 9.1. Failure to Present Bonds.

(a) Subject to the provisions of 4.7 hereof, in the event any Bond shall not be presented for payment when the principal or redemption price hereof becomes due, either at maturity or at the date fixed for prior redemption thereof or otherwise, and in the event monies sufficient to pay such Bond shall be held by the Registration Agent for the benefit of the Owner thereof, all liability of the City to such Owner for the payment of such Bond shall forthwith cease, determine, and be completely discharged. Whereupon, the Registration Agent shall hold such monies, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such monies for any claim under this Resolution or on, or with respect to, said Bond.

(b) If any Bond shall not be presented for payment within a period of five years following the date when such Bond becomes due, whether by maturity or otherwise, the Registration Agent shall, subject to the provisions of any applicable escheat or other similar law, pay to the City any monies then held by the Registration Agent for the payment of such Bond and such Bond shall (subject to the defense of any applicable statute of limitation) thereafter constitute an unsecured obligation of the City.

Section 9.2. Payments Due on Saturdays, Sundays, and Holidays. In any case where the date of maturity or interest on or principal of any Bond, or the date fixed for redemption of any Bond, shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions similar to the Registration Agent are authorized by law to close, then the payment of the interest on, or the principal, or the redemption price of, such Bond need not be made on such date but must be made on the next succeeding day not a Saturday, Sunday, or a legal holiday or a day upon which banking institutions similar to the Registration Agent are authorized by law to close, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 9.3. Miscellaneous Acts. The appropriate officers of the City are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, and certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may,

in their discretion, be necessary or desirable to implement or comply with the intent of this Bond Resolution, or any of the documents herein authorized and approved, or for the authorization, issuance, and delivery by the City of the Bonds.

Section 9.4. Amendment. The City Council is hereby authorized to make such amendments to the Bond Resolution as will not impair the rights of the Bondholders.

Section 9.5. No Recourse Under Bond Resolution or on Bonds. All stipulations, promises, agreements, and obligations of the City contained in this Resolution shall be deemed to be the stipulations, promises, agreements, and obligations of the City and not of any officer, director, or employee of the City in his or her individual capacity, and no recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based on this Resolution against any officer, director, or employee of the City or against any official or individual executing the Bonds.

Section 9.6. Partial Invalidity. If any one or more of the provisions of the Bond Resolution, or of any exhibit or attachment thereto, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but the Bond Resolution, and the exhibits and attachments thereto, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Section 9.7. Continuing Disclosure. The City hereby covenants and agrees that it will provide financial information which is customarily prepared and publicly available and material event notices as required by Rule 15c2-12 of the Securities Exchange Commission for the Bonds. The Mayor is authorized to execute at the Closing of the sale of the Bonds, an agreement for the benefit of and enforceable by the owners of the Bonds specifying the details of the financial information and material event notices to be provided and its obligations relating thereto. Failure of the City to comply with the undertaking herein described and to be detailed in said closing agreement, shall not be a default hereunder, but any such failure shall entitle the owner or owners of any of the Bonds to take such actions and to initiate such proceedings as shall be necessary and appropriate to cause the City to comply with its undertaking as set forth herein and in said agreement, including the remedies of mandamus and specific performance.

Section 9.8. Post Issuance Compliance. The City does hereby adopt Meierhenry Sargent Post-Issuance Compliance Policy and Tax-Advantaged Obligations and Continuing Disclosure with regard to the Certificates attached hereto with regard to the Bonds. The City appoints the Finance Officer as its chief post issuance compliance officer.

Section 9.9. Conflicting Resolutions Repealed. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 9.10. Effective Date. This Bond Resolution shall take effect from and after its adoption, the welfare of the City requiring it.

The above and foregoing resolution was moved for adoption by Clark, seconded by David and

upon roll call vote, Clark, David, Fish, Jorgenson, Kull and Parsons voted aye, none voted nay. Absent: None. where upon the Mayor declared this Resolution to be duly passed and adopted.

Mayor

Attest:

Finance Officer

Adopted: January 20, 2020
Published: January 29, 2020
Effective Date: February 18, 2020

CHAMBER OF COMMERCE ADDITIONAL FUNDING REQUEST

Alderman Fish moved Alderman David seconded to approve the additional funding request from the BV Area Chamber of Commerce in the amount of \$15,000.00. Motion carried.

SPRINT AGREEMENT

The Streets Committee report was heard. Alderman Jorgenson moved Alderman Parsons seconded to approve the agreement with Sprint Communications Company in the amount of \$22,808.75. Motion carried.

HOLLY BLVD IMPROVEMENTS PAY APPLICATION

Alderman Kull moved Alderman Jorgenson seconded to approve pay application #6 to First Rate Excavate in the amount of \$36,582.17 for the Holly Blvd. improvements project. Motion carried.

CORE PHASE 1 ADVERTISE FOR BIDS

Alderman Clark moved Alderman David seconded to approve the advertisement for bids for Core Area Phase 1 Construction project. Opening of bids will be February 11, 2020. Motion carried.

HOLLY JOINT REPAIR PROJECT ADVERTISE FOR BIDS

Alderman Clark moved Alderman David seconded to approve the advertisement for bids for the Holly Joint Repair Project project. Opening of bids will be February 19, 2020 at 2:00 p.m. local time. Motion carried.

MAIN AVE INTERCEPTOR SEWER PAY APPLICATION

Alderman Parsons moved Alderman Clark seconded to approve pay application #7 to H&W Contracting, LLC in the amount of \$63,810.10 for the Main Ave Interceptor Sewer Project. Motion carried.

WELL No. 8 PAY APPLICATION

Alderman David moved Alderwoman Clark seconded to approve pay application #1 to Metro Construction, Inc in the amount of \$176,100.30 for the Well No. 8 Pump House and Transmission Line. Motion carried.

WATER FILTER MEDIA REPLACEMENT PAY APPLICATION

Alderman Kull moved Alderwoman David seconded to approve pay application #3 to American General Contractors, Inc in the amount of \$30,631.60 for the Water Treatment Plant Filter Media Replacement project. Motion carried.

WATER METER REPLACEMENT ADVERTISE FOR BIDS

Alderman Fish moved Alderwoman David seconded to approve the advertisement for bids for the water meter replacement project. Opening of bids will be February 11, 2020 at 2:00 p.m. local time. Motion carried.

Preliminary December 2019 financial reports were included in the packet for review.

At 7:07 p.m. on a motion by Alderwoman Clark seconded by Alderwoman David the meeting was adjourned.

Christina Smith
Finance Officer

Paul Lundberg
Mayor