

MINUTES

The Brandon City Council met in regular session at 6:00 p.m. on February 20, 2024 in the Council Chambers at 308 S. Main Avenue, Brandon, South Dakota. Present were Barb Fish, Tim Jorgenson, Kevin Lawrence, Colin Steen and Mayor Harry Buck. Others present were: City Administrator, Bryan Read; Finance Officer, Christina Smith; City Attorney, Lisa Marso; City Engineer, Tami Jansma; Police Chief, Jamie Steffel; Golf Course Manager, Andrew Bauer; Public Works Director, Rollie Hoeke and Development Director, Patrick Andrews. Absent: Bruce Johnson and David Kull.

Alderman Lawrence moved Alderman Steen seconded to approve the agenda. Motion carried.

Alderwoman Fish moved Alderman Jorgenson seconded to approve the minutes of the February 1, 2024 briefing meeting and the minutes of the February 5, 2024 regular meeting. Motion carried.

Alderman Steen moved Alderman Lawrence seconded to approve the following claims.

<u>VENDOR</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
AFLAC	Insurance	801.61
Alliance	Utilities	2,776.23
Alternative HR Development	Professional Services	4,033.42
American Red Cross	2024 Dues	650.00
Avera Medical Group	Professional Services	229.92
Axon Enterprise	Repairs	18,397.40
Beal Distributing	GC Resale	331.20
Blaine's Service	Hired Repairs	485.00
Border States Electric	Supplies	339.74
Boyce Law Firm	Professional Services	2,280.00
Brandon Ace Hardware	Supplies	4,545.15
Brandon Valley Chamber	Dues	12.00
Brandon Valley Media Group	Publications	2,461.33
Brandon Valley School District	Fuel	4,819.27
BX Civil Construction	Supplies	3,010.00
Cardmember Services	Various Items	3,148.59
Century Business Products	Supplies	100.94
Century Business Products	Supplies	275.03
Coca Cola	Rental	50.00
Core & Main	Supplies	800.25
Culligan	Utilities	106.15
Dakota Data Shred	Supplies	71.08
Dakota Fluid Power	Repairs	247.66
Dakota Supply Group	Supplies	121.38
Dale Kerber	Reimbursement	30.00
Dean's Distributing	Supplies	240.50
Dennis Supply Company	Supplies	48.80
Direct Automation	Hired Repairs	330.00

Direct Technologies	Software	1,100.74
Division of Motor Vehicles	Police Title	15.00
Ellis & Eastern	Lease	1,950.00
Fastenal Company	Supplies	72.27
Fleetpride	Supplies	176.07
General Traffic Controls	Safety Supplies	1,375.00
Governors Inn	Travel Expense	85.00
Grainger	Repairs	194.56
Harry Buck	Travel Expense	298.68
Hawkins	Chemicals	3,786.00
HDR Engineering	Professional Services	14,725.00
I&S Group	GC Retaining Wall	743.58
Innovative Office Solutions	Supplies	139.43
Interstate Office Products	Supplies	204.25
Jack's Uniforms	Uniform Expenses	764.37
Johnstone Supply	Supplies	41.62
Karmen Davis	Mailbox Reimbursement	34.96
Kelly Eilers	Travel Expense	585.38
Kevin Krohn	Reimbursement	8.47
Kyle Zigan	Reimbursement	108.01
Lamb Motor Company	Vehicle Purchase	42,702.00
Larry Bixby	Reimbursement	36.00
Lawson Products	Supplies	860.07
Marv's Sanitary Service	Utilities	445.25
Matt Brown	Reimbursement	22.50
MC & R Pools	Repairs	6,810.00
Med-Star	Monthly Contract	4,166.67
Micha Lee Henning	Reimbursement	31.86
Michelle Auch	Mailbox Reimbursement	21.23
MidAmerican	Utilities	3,001.84
Mills & Miller	Deicing Salt	2,418.75
Mine Safety	Safety Supplies	199.25
Minnehaha County	Supplies	60.00
Newman Traffic Signs	Supplies	169.58
Orkin	Monthly Contract	145.99
Palisades Oil	Fuel	2,005.19
Petty Cash	Travel Expense	37.50
Pitney Bowes	Lease	181.23
Qualified Presort	Utility Bill Processing	3,342.63
SD Dept of Revenue	Sales Taxes	90.34
SD Municipal	Dues	30.00
SD One Call	Locate Tickets	33.60
SD Park & Rec Assoc.	2024 Dues	60.00
Sioux Falls Humane Society	Animal Control	469.76
Sioux Falls Networks	Monthly Contract	455.12
Stanek Constructors	App 15	721,081.59
Stockwell Engineers	GC Replat	1,193.20
Sturdevant's	Repairs	1,344.14

Sunshine	GC Resale	500.92
TASC-HRA Direct Pay	Annual Dues	600.00
Titan Machinery	Repairs	92.76
Titan/CRA Payment Center	Repairs	596.17
Tony's Catering	Catering	974.44
Toro	Monthly Contract	229.00
Vogel Motors	Hired Repairs	435.00
Wellmark BCBS	March Premiums	79,662.57
Xcel Energy	Utilities	9,966.44
Zimco Supply	GC Supplies	3,000.00
US Bank	Rushmore 1 Bond	55,875.00
US Bank	Rushmore 2 Bond	212,989.58
First National Bank	Biosolid Bond	80,970.17
City Administration	February 15, 2024 Payroll	4,340.20
Finance Officer	February 15, 2024 Payroll	6,292.95
Government Buildings	February 15, 2024 Payroll	125.25
Engineer	February 15, 2024 Payroll	4,145.59
Police	February 15, 2024 Payroll	33,272.82
Building Inspections	February 15, 2024 Payroll	4,112.93
Street Department	February 15, 2024 Payroll	6,717.61
Park Department	February 15, 2024 Payroll	4,988.32
Economic Development	February 15, 2024 Payroll	2,319.31
Water Department	February 15, 2024 Payroll	9,571.16
Sewer Department	February 15, 2024 Payroll	5,666.71
Golf Course Grounds	February 15, 2024 Payroll	3,424.55
Golf Course Lounge	February 15, 2024 Payroll	2,710.40
Golf Course Pro Shop	February 15, 2024 Payroll	2,003.26
941 Payroll Taxes	February 15, 2024 Payroll	28,467.27
SD Retirement Supplemental	February 15, 2024 Payroll	1,565.00
TASC Flex Plan	February 15, 2024 Payroll	1,175.43
Accounts Management	February 15, 2024 Payroll	75.00
Direct Pay Reimbursement	February 15, 2024	3,000.00

Alderman Jorgenson moved Alderman Lawrence seconded to approve the consent calendar which contained the following item: a wage adjustment for Andrew Bauer, to step 16-4 on the wage scale, \$35.63 per hour, effective February 20, 2024. Motion carried.

ORDINANCE #696

A public hearing was held, as advertised, to consider Ordinance #696 re-zoning Tracts 1A, 2 & 3 in the Chestnut Ridge Addition. The Planning & Zoning Commission gave a do-pass on February 15, 2024. Alderman Lawrence moved Alderman Jorgenson seconded to give first reading to Ordinance #696: TITLE: AN ORDINANCE OF THE CITY OF BRANDON, SOUTH DAKOTA PROVIDING THAT THE REVISED ZONING ORDINANCE NUMBER 531 AND THE OFFICIAL ZONING MAP OF THE CITY OF BRANDON, SOUTH DAKOTA BE AMENDED TO PROVIDE FOR THE RE-ZONING OF THE FOLLOWING DESCRIBED PROPERTY. A roll call vote showed Fish, Jorgenson, Lawrence, Steen aye. Motion carried.

ORDINANCE #697

A public hearing was held, as advertised, to consider Ordinance #697 re-zoning Lot 11 Block 4 Sunrise Estates Addition. The Planning & Zoning Commission gave a do-pass on February 15, 2024. Alderwoman Fish moved Alderman Jorgenson seconded to give first reading to Ordinance #697: TITLE: AN ORDINANCE OF THE CITY OF BRANDON, SOUTH DAKOTA PROVIDING THAT THE REVISED ZONING ORDINANCE NUMBER 531 AND THE OFFICIAL ZONING MAP OF THE CITY OF BRANDON, SOUTH DAKOTA BE AMENDED TO PROVIDE FOR THE RE-ZONING OF THE FOLLOWING DESCRIBED PROPERTY. A roll call vote showed Fish, Jorgenson, Lawrence, Steen aye. Motion carried.

2023 SEASON REVIEW

The Golf Course Committee report was heard. Andrew Bauer, Golf Course Manager, gave a review of the 2023 golf season. No action required.

SEASONAL HIRES

Alderman Jorgenson recused himself from the discussion and vote. Alderman Steen moved Alderman Lawrence seconded to approve the following seasonal hires for the Brandon Golf Course for 2024. A roll call vote showed Fish, Lawrence, Steen aye. Motion carried.

Pro-Shop: Deb Stewart, \$14.50 per hour; Shelly Kolbeck, \$14.25 per hour

Marshal/Starter: Jeff Keyman, \$12.50 per hour; Brandon Woehl, \$12.00 per hour

Cart Attendant: Brody Smith, \$12.50 per hour; Eric Foss, \$12.50 per hour;
Owen Jorgenson, \$12.25 per hour; Josh Olthoff, \$12.25 per hour

SECURITY CAMERA REGULATIONS

The Parks & Recreation Committee and Public Safety Committee reports were heard. Russell & Carmin Dean, 421 S. 5th Avenue, were present for discussion. Carmin discussed some concerns they have with a neighbor whom has a security camera facing into their backyard. Lisa Marso, Brandon City Attorney, discussed some possible options. The City has no ordinance that would address this situation. No action taken.

POLICE DEPARTMENT INTERN

Alderman Steen moved Alderwoman Fish seconded to approve Travis Harms, a student at Harrisburg High School, as an unpaid volunteer with the Brandon Police Department for the spring semester of 2024. Motion carried.

AXON CONTRACT

Alderman Lawrence moved Alderman Steen seconded to approve the contract with AXON for two additional fleet camera systems and storage, as presented. Motion carried.

RESOLUTION #10-24

The Administration Committee report was heard. Alderman Jorgenson moved Alderman Lawrence seconded to approve Resolution #10-24. A roll call vote showed Fish, Jorgenson,

Lawrence, Steen aye. Motion carried.

RESOLUTION #10-24

**RESOLUTION OF INTENT TO ABOLISH BUSINESS IMPROVEMENT DISTRICT
NO. 1**

WHEREAS, the Brandon City Council adopted Ordinance No. 370, attached hereto, on July 19, 2005 that established Business Improvement District No. 1 (“BID #1”); and

WHEREAS, Section 5 of Ordinance #370 states “The purpose of Business Improvement District #1 is to retire the debt created by the cost of construction of a 8,700 square foot public conference center facility located next to the new Holiday Inn Express and Suites that will be located on property described in Section 1, Paragraph A”: and

WHEREAS, the City of Brandon will retire said debt on or about March 1, 2024: and

WHEREAS, the purpose of BID #1 will be fulfilled; and

WHEREAS, SDCL 9-55-19 requires the governing body to adopt a resolution of intent to abolish the area at least 30 days prior to the hearing to abolish the area: and

NOW THEREFORE BE IT RESOLVED by the City Council of Brandon, South Dakota that it is the intent to abolish BID #1 and to set a public hearing on the matter for 6:00 PM on April 1, 2024 in the Council Chambers at 308 S. Main Avenue.

Adopted this 20th day of February, 2024.

Harry Buck
Mayor

ATTEST:

Christina Smith
Finance Officer

RISTY BARN STRUCTURAL ASSESSMENT PROPOSAL

Alderman Fish moved Alderman Steen seconded to approve the proposal from ISG for the Structural Life Safety Assessment of the barn located on the Risty/Metz property at a cost of \$5,000.00 to the City of Brandon. Motion carried.

VIDEO LOTTERY DISCUSSION

Discussion held the number of video lottery establishments allowed within the City of Brandon. Current ordinance allows for 7 establishments that have video lottery machines with on-sale malt beverage and wine licenses. Additional discussion on charging \$50 per machine. Staff will present an ordinance at a future meeting with the changes as discussed.

RESOLUTION #11-24

Alderman Steen moved Alderman Jorgenson seconded to approve Resolution #11-24. A roll call vote showed Fish, Jorgenson, Lawrence, Steen aye. Motion carried.

RESOLUTION #11-24

RESOLUTION AUTHORIZING THE EXECUTION, TERMS, ISSUANCE, SALE AND PAYMENT OF SALES TAX REVENUE BONDS, SERIES 2024 IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED FOUR MILLION AND NO/100 DOLLARS (\$4,000,000), OF THE CITY OF BRANDON OF MINNEHAHA COUNTY, SOUTH DAKOTA.

WHEREAS, the City of Brandon is authorized by the provisions of SDCL §10-52-2.10 to issue bonds;

WHEREAS, the City of Brandon pursuant to the provisions of Chapter 11 of the City of Brandon Code of Ordinances, levies non-ad valorem tax; and

WHEREAS, the City Council has determined and does hereby declare that is necessary and in the best interest of the City to issue Sales Tax Revenue Bonds, Series 2024 for the purpose of providing funds to fund the costs of Phase 2B of the Core Area Reconstruction Project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRANDON OF MINNEHAHA COUNTY, 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 Chapter 10-52, as amended.

“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 not to exceed \$4,000,000 in aggregate principal amount of Sales Tax Revenue Bonds, Series 2024, dated in 2024, or such other designation or date as shall be determined by the City Council pursuant to Section 8.1 hereof, authorized and issued under the Bond 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.

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

“Bond Insurance Commitment” means the commitment(s) of the Bond Insurer, if any, to insure one or more series, or certain principal maturities thereof, all or a portion of the Bonds.

“Bond Insurance Policy” means the policy(ies) of municipal bond insurance, if any, delivered by the Bond Insurer at the time of issuance and delivery of Bonds to be insured pursuant to the Bond Insurance Commitment.

“Bond Insurer” means the municipal bond insurer(s), if any, that has committed to insure one or more series, or certain principal maturities thereof, of the Bonds, pursuant to the Bond Insurance Commitment.

“Bond Payment Date” means the payment dates as provided in the Bond Purchase Agreement.

“Bond Purchase Agreement” means the agreement between the City and the Underwriter for the purchase of the Bonds.

“Bond Resolution” means the within Resolution, duly adopted by the City Council on the date hereof, as it may be amended from time to time.

“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 certificates being held by and “immobilized” in the custody of such Depository, and under which records maintained by persons, other than the City or the Paying Agent and Registrar, constitute the written record that identifies, and records the transfer of the beneficial “book-entry” interests in those Bonds.

“Capital Project” means to fund the costs of Phase 2B of the Core Area Reconstruction Project.

“City” means the City of Brandon, Minnehaha County, South Dakota, an aldermanic form of municipality organized under the State of South Dakota.

“City Council” means the City Council of the City elected pursuant to the provisions of the SDCL Title 9.

“City Finance Officer” means the City 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 City Council to perform the duties otherwise performed by the City Finance Officer, or his/her designee.

“Closing Date” means the date the Bonds are exchanged for value.

“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.

“Costs of Issuance” means all costs, fees, charges and expenses incurred in connection with the issuance of the Bonds, including costs for bond insurance and rating agency fees.

“Debt” means (1) indebtedness of the City for borrowed money or for the deferred purchase price of property or services, and expressly including the obligation to pay principal and interest on or with respect to revenue bonds, (2) the obligation of the City as lessee under leases which should be recorded as capital leases under generally accepted accounting principles, and (3) obligations of the City under direct or indirect guarantees in respect of, and obligations, contingent or otherwise, to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in subdivisions (1) and (2) above.

“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.

“Insured Obligations” shall mean the Sales Tax Revenue Bonds, Series 2024.

“Issuer” shall mean the City of Brandon, South Dakota.

“Interest Payment Dates” means such dates set forth in the Bond Purchase Agreement.

“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 SDCL Chapter 9-13 or his or her designee acting on his or her behalf.

“Obligor” shall mean the City of Brandon, South Dakota.

“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 Paying Agent and Registrar 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 Underwriter, 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.

“Outstanding Parity Bonds” means any bonds payable from the Sales Tax.

“Paying Agent and Registrar” means U.S. Bank Trust Company, National Association, St. Paul,

Minnesota, 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.

“Policy” shall mean the Municipal Bond Insurance Policy, if so issued, that guarantees the scheduled payment of principal of and interest on the Insured Obligations when due.

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

“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.

“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 date set forth in the Bond Purchase Agreement.

“Resolution” means this Bond Resolution.

“Required Reserve” 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.

“Sales Tax” means the City’s two percent tax on the gross receipts of all persons engaged in business within the jurisdiction of the City who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL ch. 10-45 and the two percent upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL ch. 10-46 imposed by Chapter 11 of the City of Brandon Code of Ordinances.

“Schedule” means the principal and interest payment schedule for the Bonds.

“Security Documents” shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Insured Obligations.

“Underwriter” means D.A. Davidson & Co., 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, declared a necessity, and determined by the City Council that all limitations upon the issuance of Bonds have been met and that the Bonds are being authorized, issued and sold in accordance with the provisions of the Act.

ARTICLE III *AUTHORITY, PLEDGE, LEVY AND ACCOUNTS*

Section 3.1 Authority to Issue Bonds.

The City declares it necessary and is authorized by SDCL Chapter 10-52 to issue bonds (i) to fund the costs of Phase 2B of the Core Area Reconstruction Project, and (ii) pay Costs of Issuance, therefore sales tax revenue bonds shall be issued pursuant to, and in accordance with, the provisions of the Act, this Bond Resolution, and other applicable provisions of law, in the aggregate principal amount as finalized by the Bond Purchase Agreement.

Section 3.2 Pledge of Sales Tax.

The Sales Tax shall be and they are hereby irrevocably pledged to the prompt and full payment of the principal, premium, and interest on each and all of said Bonds as such principal, premium, and interest respectively become due.

Section 3.3. Collection of Taxes.

Pursuant to SDCL § 10-52-2.10, the City does hereby pledge, provide, and agree that it will continue to impose and collect the Sales Tax so long as the Bonds are outstanding. The governing body does hereby pledge so much of the collections of the Sales Tax as may be necessary to pay the principal, premium, and interest on the bonds, and to maintain any debt service reserve established for the Bonds.

Section 3.4. Accounts.

(a) Sales Tax Fund. The Finance Officer has established and will maintain the Sales Tax Revenue Fund as a separate and special account in the financial records of the City until all Bonds issued and made payable therefrom, and interest due thereon, have been duly paid or discharged. All collections of the Sales Tax shall be credited, as received, to the Sales Tax Revenue Fund. Within the Sales Tax Revenue Fund are various separate accounts to be maintained by the City.

(b) Construction Account. There is hereby created and established a “Construction Account” There shall be credited to the Construction Account the proceeds from the sale of the Bonds remaining after (a) the deposit to the Reserve Account required by Section 3.05, and (b) payment of the (i) Underwriter’s discount, (ii) OID, and (iii) any other expenses of issuing the Bonds. All moneys credited to the Construction Account shall be applied solely to the payment of the costs associated with the Capital Project and Costs of Issuance.

(c) Principal and Interest Account. There is hereby created and established a “Principal and Interest Account.” Immediately upon delivery of the Bonds, there shall be credited to the Principal and Interest Account the amount of accrued interest received from the Underwriter, if any. Commencing on the date specified in the Bond Purchase Agreement, there shall be withdrawn from the Sales Tax Fund at least monthly and credited to the Principal and Interest Account an amount which will equal at least one-sixth (1/6th) of the interest becoming due on the next succeeding payment date and one-twelfth (1/12th) of the principal becoming due on the next succeeding payment dates with respect to the Outstanding Bonds. In all events there shall be credited to the Principal and Interest Account amounts sufficient to pay the principal of and interest on the Outstanding Bonds as the same become due.

(d) Reserve Account. 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 Sales Tax to the Reserve Account until the Reserve Requirement is again reached. Upon the issuance of any parity lien bonds, the Reserve Requirement established in this section shall be increased to an amount equal to the combined maximum annual debt service on the Outstanding Bonds. The balance required shall be funded on the delivery date of the parity lien bonds. Moneys credited to the Reserve Account may be used only for the payment of principal of and interest on the Outstanding Bonds and shall be used only in the event that there are insufficient moneys in the Principal and Interest 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 Construction Account, provided that after completion of the Capital Project such interest shall be transferred to the Principal and Interest 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) Subordinate Lien Bonds. After making the above required payments, any remaining Sales Tax may be used for the payment of the principal of and interest on any additional sales tax revenue bonds having a lien which is subordinate to the lien of the Outstanding Bonds, and for a reserve fund as additional security for the payment of such subordinate lien bonds.

(f) Other Expenditures. The remaining Sales Tax may be used for any legally authorized purpose.

Section 3.5. Required Reserve. The Required Reserve, if any, shall be set forth in the Bond Purchase Agreement and may be funded by the City, Bond proceeds, a surety bond, and/or a municipal bond debt service insurance policy with respect to all or a portion of the Required Reserve.

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 Four Million and No/100 Dollars (\$4,000,000).

Section 4.2. Form of Bonds; Execution.

(a) The Bonds are issuable only as fully registered Bonds, without coupons, in any denomination. All Bonds issued under the Resolution shall be substantially in the form set forth in Exhibit A attached hereto, 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 City 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 and be subject to the terms and conditions as are set forth in the Bond Purchase Agreement.

(b) The Bonds shall be designated “Sales Tax Revenue Bonds, Series 2024,” 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 Bonds is paid, such interest (computed upon the basis of a 360-day year of twelve 30-day months unless otherwise provided by the Bond Purchase Agreement) 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 Date. 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. Each Bond shall state that it is issued pursuant to the Act.

(c) The Paying Agent and Registrar 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 Paying Agent and Registrar 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, without, 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 and premium, if any, on the Bonds shall be made upon presentation and surrender of such Bonds to the Paying Agent and Registrar as the same shall become due and payable.

Section 4.4 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 4.5 Registration, Transfer and Exchange of Bonds.

(a) The Bonds are transferable only by presentation to the Paying Agent and Registrar 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 Paying Agent and Registrar 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 Paying Agent and Registrar 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 Paying Agent and Registrar, 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 Bonds, 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 Paying Agent and Registrar 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 Paying Agent and Registrar, 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.

(b) Except as otherwise provided in this subsection or in the Bond Purchase Agreement, 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 PAYING AGENT AND REGISTRAR 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 PAYING AGENT AND REGISTRAR 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 Paying Agent and Registrar 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 Paying Agent and Registrar 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 Paying Agent and Registrar to authenticate and deliver replacement Bonds in the form of fully registered Bonds to each Beneficial Owner.

NEITHER THE CITY NOR THE PAYING AGENT AND REGISTRAR 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 4.6 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 Paying Agent and Registrar 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 Paying Agent and Registrar: (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 Paying Agent and Registrar 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 Paying Agent and Registrar. 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 attorneys' fees, incurred by the City and the Paying Agent and Registrar 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 Paying Agent and Registrar such security or indemnity as they may require to save them harmless and evidence to the satisfaction of the City and the Paying Agent and Registrar 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 4.7 Authentication.

The Paying Agent and Registrar is hereby authorized to authenticate and deliver the Bonds to the Underwriter 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 Paying Agent and Registrar by the manual signature of an officer thereof on the certificate set forth herein on the bond form.

Section 4.8. Qualification for DTC.

The Paying Agent and Registrar 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 Paying Agent and Registrar) by overnight delivery, courier service, telegram, telecopy 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

Paying Agent and Registrar shall not be liable with respect to any such arrangements it may make pursuant to this section.

Section 4.09. Rating Agency.

The City authorized to enter into an agreement with a Rating Agency as may be required under the 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 4.10. Bond Counsel.

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

Section 4.11. Dissemination Agent.

The City authorizes the Authorized Officer of the City to retain a dissemination agent with regard to the written undertaking authorized in Section 11.7 hereof.

Section 4.12. Underwriter.

The Mayor and Finance Officer are authorized to retain D.A. Davidson & Co. as Underwriter upon such terms as they approve.

Section 4.13. Bond Insurance, Surety Bond, Municipal Bond Debt Service Insurance Policy.

If it is determined to obtain municipal bond insurance with respect to the Bonds, the Authorized Officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance for all or a portion of the Bonds, and/or a surety bond and/or a municipal bond debt service insurance policy with respect to all or a portion of the reserve requirement, if any, with respect to the Bonds and/or any and all outstanding bonds issued pursuant to the Resolution. The Authorized Officers of the City are authorized to agree to such additional provisions as the Bond Insurer may reasonably request and which are acceptable to the Authorized Officers of the City including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the Bond Insurer in the event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the Bond Insurance Policy shall be made in the form of Bond provided herein. Any provisions which may be required by the Bond Insurer to be included in this Resolution with respect to a Bond Insurance Policy, surety bond, or municipal bond debt service insurance policy shall be attached hereto, and be included herein as if stated in full.

ARTICLE V
REDEMPTION OF BONDS PRIOR TO MATURITY

Section 5.1 Redemption.

(a) **Redemption.** The Bonds shall be redeemable as set forth in the Bond Purchase Agreement.

ARTICLE VI

PAYING AGENT AND REGISTRAR

Section 6.1. Appointment and Acceptance of Duties.

(a) The City hereby authorizes the City Finance Officer to appoint the Paying Agent and Registrar with respect to the Bonds and authorizes and directs the Paying Agent and Registrar 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, to furnish the City at least annually a certificate of destruction with respect to Bonds canceled and destroyed, 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 City Finance Officer, or either of them is hereby authorized to execute and the City Finance Officer is hereby authorized to attest such written agreement between the City and the Paying Agent and Registrar as they shall deem necessary or proper with respect to the obligations, duties and rights of the Paying Agent and Registrar. The payment of all reasonable fees and expenses of the Paying Agent and Registrar 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 Paying Agent and Registrar may become the Owner of any Bonds, with the same rights as it would have if it were not a Paying Agent and Registrar. The Paying Agent and Registrar may act as a purchaser 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 Paying Agent and Registrar and Appointment of Successors.

(a) The Paying Agent and Registrar 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 City Finance Officer. The Paying Agent and Registrar may be removed at any time by the City Finance Officer, provided that such removal does not constitute a breach of any contractual agreement with any such Paying Agent and Registrar, by filing written notice of such removal with such Paying Agent and Registrar. Any successor Paying Agent and Registrar shall be appointed by the City Finance Officer 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 Paying Agent and Registrar 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 Paying Agent and Registrar, such Paying Agent and Registrar shall pay over, assign and deliver any monies and securities held by it as Paying Agent and Registrar, and all books and records and other properties held by it as Paying Agent and Registrar, to its successor, or if there be no successor then appointed, to the City Finance Officer until such successor be appointed.

Section 6.4. Merger or Consolidation of Paying Agent and Registrar.

Any corporation or association into which the Paying Agent and Registrar 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 Paying Agent and Registrar 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 City 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 ADDITIONAL BONDS

The City may issue additional bonds (the "Parity Bonds") payable from the Sales Tax and having a lien upon such revenues on a parity with the Bonds and the Outstanding Parity Bonds providing that:

1. the City is current in the payment of principal and interest on the Outstanding Bonds and is current in the collections required for the Principal and Interest Account and the Reserve Account.
2. the City is in compliance with all covenants of Outstanding sales tax revenue bonds and
3. the Sales Tax collected by the City in the last preceding fiscal year are sufficient to cover 1.25 times the combined average annual principal and interest requirements on the Outstanding Bonds and the proposed Parity Bonds.

ARTICLE VIII
SALE OF BONDS AND DEPOSIT OF PROCEEDS

Section 8.1. Sale of Bonds.

The Bonds shall be sold to the Underwriter at a price to be set forth in the Bond Purchase Agreement. The Mayor and the Finance Officer, or either of them, in consultation with the Underwriter, is authorized to make such changes in the structuring of the terms and sale of the Bonds as they shall deem necessary. In this regard, they, or either of them, in consultation with the Underwriter, are authorized to cause to be sold an aggregate principal amount of the Bonds less than that authorized herein, to sell any or all of the Bonds as term Bonds with annual mandatory redemption requirements which will produce substantially the same annual principal reductions as authorized herein, to change the dated date of the Bonds, and to adjust principal and interest payment dates and redemption dates of the Bonds. 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 City Finance Officer, or either of them, are hereby authorized to execute and the City Finance Officer is authorized to attest the Bond Purchase Agreement with the Underwriter providing for the purchase and sale of the Bonds. The Bond Purchase Agreement shall be in form and content acceptable to the Mayor and City 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 City Finance Officer are authorized to cause the Bonds to be authenticated and delivered by the Paying Agent and Registrar to the Underwriter and to execute, publish, and deliver all Bonds, documents including the Official Statement and closing 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 to the Underwriter, 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 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(e)(3) of the Securities and Exchange Commission.

To comply with paragraph (b) (3) of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule") and with Rule G-32 City agrees to deliver to the Underwriter, the Official Statement (which shall be a final official statement, as such term is defined in the Rule, as of its date) in an electronic format as prescribed by the MSRB.

Section 8.3. Disposition of Bond Proceeds.

The proceeds of the sale of the Bonds shall be deposited in the Construction Account. The proceeds shall be used for the Capital Project and Costs of Issuance and shall be evidenced on the books of the City.

Section 8.4. Tax Matters.

- (a) The City covenants and agrees with the registered owners from time to time of the 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 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 Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.
- (b) The Mayor and the City Finance Officer, being the officers of the City charged with the responsibility for issuing the Bonds pursuant to this Resolution are hereby authorized and directed to execute and deliver to the Underwriter thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds, it is reasonably expected that the proceeds of the Bonds will be used in a manner that would not cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.
- (c) The City shall file with the Secretary of the Treasury a statement concerning the Bonds containing the information required by Section 149(e) of the Code.
- (d) Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City hereby designates the 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 2024 in an amount greater than \$10,000,000.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Failure to Present Bonds.

(a) Subject to the provisions of Section 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 Paying Agent and Registrar 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 Paying Agent and Registrar 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 the Resolution or on, or with respect to, said Bonds.

(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 Paying Agent and Registrar shall, subject to the provisions of any applicable escheat or other similar law, pay to the City any monies then held by the Paying Agent and Registrar 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 Bonds, or the date fixed for redemption of any Bonds, 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 Paying Agent and Registrar 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 Paying Agent and Registrar 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 the 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 this 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 the Resolution or any supplemental resolutions 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 thereon or on the 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 this 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 this Bond Resolution, and the exhibits and attachments hereto, 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 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 Bonds attached hereto. 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.

Said motion was seconded by Member Jorgenson and upon vote being taken the following voted AYE: Fish, Jorgenson, Lawrence and Steen and the following voted NAY: None

ATTEST:

Mayor

Finance Officer

RIVERPARK DEVELOPMENT PRELIMINARY PLANS

Preliminary plans were presented for Riverpark Development. The Planning & Zoning Commission approved on February 15, 2024. Brian Jackson, VanBuskirk Companies, was present for discussion. Alderman Jorgenson moved Alderman Steen seconded to approve the preliminary plans as presented. Motion carried.

SPRINKLER DAMAGE IN RIGHT OF WAY

The Streets Committee report was heard. A request was received from a resident to be reimbursed for sprinkler damage in the boulevard, caused by the City snowplow. Current policy is not to reimburse for this type of damage since the boulevard is City property. It was the consensus of the Council to keep the current policy, and not reimburse. No further action required.

CORE PHASE 2B TESTING CONTRACT

Alderman Lawrence moved Alderman Steen seconded to approve the material testing contract with GeoTek Engineering for the Core Phase 2B project at a unit cost not to exceed \$25,500.00. Motion carried.

WATER TREATMENT PLANT PAY APPLICATION

The Water & Sewer Committee report was heard. Alderman Jorgenson moved Alderman Steen seconded to approve pay application #15 to Stanek Constructors, Inc. in the amount of \$721,081.59, for the water treatment plant project. Motion carried.

At 7:02 p.m. Alderman Steen moved Alderwoman Fish seconded to go into executive session to discuss potential litigation, per SDCL 1-25-2.3. Motion carried. At 7:04 p.m. Mayor Harry Buck declared the executive session ended.

At 7:06 p.m. on a motion by Alderman Jorgenson seconded by Alderman Steen the meeting was adjourned. Motion carried.

Melissa Labahn
Municipal Recording Clerk

Harry Buck
Mayor