



Spearfish City Council
Regular Session Minutes
August 17, 2020 5:30 p.m.

The Spearfish City Council met at 5:30 p.m. on Monday, August 17, 2020. Mayor Boke presided and called the meeting to order. Roll call was taken with the following members present: Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek. Absent: None. Also present: City Administrator Harmon, City Planner Watson, Parks and Recreation Director Ehnes, City Attorney McDonald, City Engineer Mathis, Finance Officer DeNeui, Public Works Director Lee, Public Safety Director Rotert, Police Chief Jacobs, Fire Chief Deaver, Recreation Facility Superintendent Rauterkus, and Assistant Finance Officer Thurmes.

All stood and recited the pledge of allegiance. Amendments to the agenda were made to add item 9G and to move items 9D-G and 10D to after Public Works item 11B. Klarenbeek moved, Hodgs seconded and all voted to approve the amended agenda. No potential conflicts of interest were noted.

Consent Agenda – Hodgs moved, Herrmann seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye, motion passed to approve the consent agenda as follows:

- A. Approve the minutes of the City Council regular session dated August 3, 2020.
- B. Approve the treasurer's report dated July 31, 2020.
- C. Hire Travis Morgan as a full-time, benefit-eligible solid waste collector/operator, grade 10, step 12, \$18.93 per hour effective August 18, 2020. (Hiring contingent upon results of background checks and pre-employment drug screen).
- D. Move Kaitlyn Shallenberger to part-time (partial benefit eligible) facility maintenance tech, grade 10, step 1, \$15.22 per hour, effective 8/18/2020.
- E. Add Kody McCamy to the 2020 Fire Department Volunteer List.

Agreement – Klarenbeek moved, Hodgs seconded and with Eisenbraun, Herrmann, Hodgs, Jacobs, Klarenbeek voting aye and Clark voting nay motion passed to approve the Facility Lease and Use Agreement with Kids Point, LLC for daycare at the Spearfish Recreation and Aquatic Center and to authorize up to \$50,000 in improvements to the facility for the daycare operations.

Resolution 2020-23 – Eisenbraun moved, Jacobs seconded and all voted to adopt Resolution 2020-23 as follows:

RESOLUTION 2020-23

A RESOLUTION TO REQUEST REPEAL OF LAWRENCE COUNTY RESOLUTION 2020-21

WHEREAS, in 1992, the City of Spearfish adopted a discretionary tax formula for industrial structures through Resolution 1992-8 and, in 1996, the City of Spearfish adopted Resolution 1996-21 to amend 1992-8 by defining industrial properties;

WHEREAS, the City of Spearfish discretionary tax formula applied to industrial structures and was as follows:

The following formula for assessed value shall, pursuant to SDCL 10-6-35.2 be used for tax purposes

1. For the first tax year following construction twenty percent (20%) of the assessed value shall be used for tax purposes on such property;
2. For the second tax year following construction forty percent (40%) of the assessed value shall be used for tax purposes on such property;
3. For the third tax year following construction, sixty percent (60%) of the assessed value shall be used for tax purposes on such property;
4. For the fourth tax year following construction, eighty percent (80%) of the assessed value shall be used for tax purposes on such property;
5. For the fifth tax year following construction, one hundred percent (100%) of the assessed value shall be used for tax purposes on such property.

WHEREAS, on June 23, 2020, the Lawrence County Commission adopted Resolution 2020-21 establishing the discretionary tax formula under SDCL 10-6-35.2 for Lawrence County to be:

The assessed value to be used for tax purposes of any structure classified pursuant to this Resolution shall, following construction, be calculated as follows:

- a. For the first tax year following construction, 100% of the Pre-Adjustment Value;
- b. For the second tax year following construction, 100% of the Pre-Adjustment Value;
- c. For the third tax year following construction, 100% of the Pre-Adjustment Value;
- d. For the fourth tax year following construction, 100% of the Pre-Adjustment Value;
- e. For the fifth tax year following construction, 100% of the Pre-Adjustment Value.

WHEREAS, pursuant to state law, the City of Spearfish is no longer able to apply its discretionary tax formula because of Lawrence County Resolution 2020-21;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Spearfish that it requests Lawrence County repeal its Resolution 2020-21 to restore an important tool for the city to promote economic development in the manner that works best for each municipality;

Dated this 17th day of August 2020.

CITY OF SPEARFISH

By: _____

Dana Boke, Mayor

ATTEST:

Michelle DeNeui

(SEAL)

Finance Officer

Adopted: August 17, 2020

Published: August 22, 2020

Effective: September 11, 2020

Certificates – Clark moved, Herrmann seconded and all voted to authorize Mayor Boke to sign SDDOT Right-of-Way and Utilities Certificates for the Exit 8 Area Community Path – Phase 1 Project.

Permit – Clark moved, Jacobs seconded and all voted to obtain a Lawrence County Right-of-Way Permit and Memorandum of Understanding for a proposed 5-foot sidewalk along Hillsview Road as part of the Exit 8 Area Community Path Project (R.T.P Grant Segment).

Realignment – Hodgs moved, Herrmann seconded and all voted to approve phase 2 realignment for the Exit 8 Area Community Path from Old Highway 14 to the north property line of Butte Electric located along the west side of Old Belle Road.

Sign – Following discussions Eisenbraun moved, Clark seconded and all voted to postpone a decision on the Jackson Boulevard Exit 12 Gateway/Welcome sign until more renderings are provided.

Public Hearing – A public hearing was opened at 6:10 p.m. to consider an application from Keith Cullinan with Aladdin Food Management Services @ BHSU to transfer an (on-off sale) wine license from Aviands LLC located at 1200 University Street, BHSU Campus excluding the Joy Center. No oral or written comments were received and the hearing was closed at 6:10 p.m.

License – Klarenbeek moved, Eisenbraun seconded and all voted to approve the application from Keith Cullinan with Aladdin Food Management Services @ BHSU to transfer an (on-off sale) wine license from Aviands LLC located at 1200 University Street, BHSU Campus excluding the Joy Center.

Administrative Fees – Klarenbeek moved, Eisenbraun seconded and all voted to authorize the finance office to make the second quarter budgeted administrative fees for personnel and information technology costs.

Purchase – Eisenbraun moved, Jacobs seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to purchase three Microsoft Datacenter 16 Core Government Licenses with software assurance for 2 years at a cost of \$20,922.84.

Ordinance 1324 – Clark moved, Klarenbeek seconded and all voted to approve first reading and set a public hearing for September 8, 2020 for Ordinance 1324 – An Ordinance Amending Appendix A – Zoning of the Revised Ordinances of the City of Spearfish by Zoning Certain Property. (Rezoning the two 17-foot strip parcels along Colorado Boulevard.)

Public Hearing – A public hearing was opened at 6:14 p.m. to consider Ordinance 1325 – An Ordinance Amending Appendix A – Zoning of the Revised Ordinances of the City of Spearfish by

Zoning Certain Property. (Lots 1B-1 through 1B-8 of Block 4 Heritage Addition.) No oral or written comments were received and the hearing was closed at 6:14 p.m.

Ordinance 1325 – Clark moved, Herrmann seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to approve the second reading of Ordinance 1325 – An Ordinance Amending Appendix A – Zoning of the Revised Ordinances of the City of Spearfish by Zoning Certain Property. (Lots 1B-1 through 1B-8 of Block 4 Heritage Addition.)

Ordinance 1326 – Jacobs moved, Eisenbraun seconded and all voted to approve the first reading and set a public hearing for September 8, 2020 for Ordinance 1326 – An Ordinance Amending Appendix A Zoning, Article V. Supplementary Regulations, Section 6. Sign Regulations of the Revised Ordinances of the City of Spearfish.

Lease – Following discussions, Klarenbeek moved to recommend staff work with Riverfront Broadcasting to renegotiate a ground lease on Lookout Mountain at the AT&T lease rates. The motion failed for lack of a second. Herrmann and Hodgs expressed opposition to a higher tower. Further discussions provided direction for staff to work with Riverfront Broadcasting to renegotiate a ground lease on Lookout Mountain with limitations on the tower height and attachments.

Bid Opening – Eisenbraun moved, Jacobs seconded and all voted to set the bid opening for the Sky Ridge Development Infrastructure Project Phase 1 for September 15, 2020 at 1:30 p.m. in the City Hall Council Chambers with a pre-bid meeting to be held on September 8, 2020 at 1:30 p.m. in the City Hall Council Chambers.

Surplus – Hodgs moved, Herrmann seconded and all voted to surplus the provided list of items to be auctioned, destroyed, salvaged/sold as scrap, traded in, transferred to another government agency, or sold by sealed bid and to appoint Brandon Earl, Neil Plocek, Dustin Lee, Rex McDonald, Kelly Klein, Crystena Sieber, Nancy Hoffman, Leland Hanson, Lee Alberts, Dion Block, Dennis Hafner, Brian Ulmer, Pat Rotert, Curt Jacobs, Jude Warner, Bob Evridge, Wayne Alderman, and Mike Harmon as appraisers for surplus items.

Underwriter – Eisenbraun moved, Hodgs seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to engage Colliers Securities LLC as the underwriter for the Sales Tax Revenue Bonds, Series 2020 and to authorize staff to sign the Letter of Intent and disclosure forms required.

Resolution 2020-21 – Eisenbraun moved, Hodgs seconded and all voted to adopt Resolution 2020-21 as follows:

RESOLUTION 2020-21

RESOLUTION AUTHORIZING THE EXECUTION, TERMS, ISSUANCE, SALE AND PAYMENT OF SALES TAX REVENUE BONDS, SERIES 2020 IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED TEN MILLION AND NO/100 (\$10,000,000), OF THE CITY OF SPEARFISH OF LAWRENCE COUNTY, SOUTH DAKOTA.

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

WHEREAS, the City of Spearfish pursuant to the provisions of Chapter 16 of the Revised Ordinances of the City of Spearfish, South Dakota, 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 2020 for the purpose of providing funds to fund capital projects inside the City of Spearfish; road, water, sewer, grading and pay the costs of issuance of Bonds.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPEARFISH OF LAWRENCE COUNTY, AS FOLLOWS:

ARTICLE I
DEFINITIONS

Section 1.01. 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 \$10,000,000 in aggregate principal amount of Sales Tax 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 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 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 capital projects inside the City of Spearfish; road, water, sewer, grading and pay the costs of issuance of Bonds.

“City” means the City of Spearfish, Lawrence 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 2020.

“Issuer” shall mean the City of Spearfish, 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 Spearfish, 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 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.

“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 dates set forth in the Bond Purchase Agreement.

“Resolution” means this Bond Resolution.

“Sales Tax” means the two (2) percent on the gross receipts of all persons engaged in the 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 acts amendatory thereto and the two (2) excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of tangible personal property or services which are subject to the South Dakota Use Tax Act, SDCL Ch. 10-46 and acts amendatory thereto.

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

“Underwriter” means Colliers Securities LLC, Pierre, South Dakota, acting for and on behalf of itself and such securities dealers as they may designate.

Section 1.02. References to Resolution.

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

Section 1.03. 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 1.04. Headings.

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

ARTICLE II ***FINDINGS***

Section 2.01.

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 3.01 Authority to Issue Bonds.

The City declares it necessary and is authorized by SDCL Chapter 10-52 to issue bonds (i) to fund Capital 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, the Bond Resolution, and other applicable provisions of law, in the aggregate principal amount as finalized by the Bond Purchase Agreement.

Section 3.02 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 3.03. 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.

Section 3.04. 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 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) 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.

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

ARTICLE IV

FORM, TERMS, EXECUTION, AND TRANSFER OF BONDS

Section 4.01. Authorized Bonds.

The aggregate principal amount of Bonds that may be issued under the Bond Resolution shall not exceed Ten Million and No/100 Dollars (\$10,000,000).

Section 4.02. 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 4.03. 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 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 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 4.04. 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 4.05. 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 4.06. 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 4.07. 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 4.08. 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 Colliers Securities LLC as Underwriter upon such terms as they approve.

ARTICLE V

REDEMPTION OF BONDS PRIOR TO MATURITY

Section 5.01 Redemption.

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

ARTICLE VI

PAYING AGENT AND REGISTRAR

Section 6.01. 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 6.02. 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 6.03. 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 6.04. 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.
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 8.01. 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 8.02. 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 8.03. Disposition of Bond Proceeds.

The proceeds of the sale of the Bonds shall be deposited in the general fund - 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 8.04. 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 2020 in an amount greater than \$10,000,000.

ARTICLE IX

MISCELLANEOUS

Section 9.01. 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 9.02. 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 9.03. 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 9.04. 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 9.05. 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 9.06. 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 9.07. 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 9.08. 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 9.09. Conflicting Resolutions Repealed.

All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Said motion was made by Member Eisenbraun seconded by Member Hodgs and upon vote being taken the following voted Aye: Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek and the following voted NAY: none.

ATTEST:

Dana Boke, Mayor

Michelle DeNeui, Finance Officer

SEAL

Adopted: August 17, 2020
Published: August 22, 2020
Effective: September 11, 2020

**EXHIBIT A-(FORM OF BOND)
UNITED STATES OF AMERICA
STATE OF SOUTH DAKOTA
CITY OF SPEARFISH
LAWRENCE COUNTY, SOUTH DAKOTA
SALES TAX REVENUE BONDS, SERIES 2020**

REGISTERED

REGISTERED

No.

\$.00

Interest Rate
%

Maturity Date

Bond Date

Registered Owner: **Cede & Co.
55 Water Street, 1st Floor.
New York, New York 10041
Tax ID #13-2555119**

Principal Amount: **AND NO\100 DOLLARS**

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THE CERTIFICATE SET FORTH ON THE FOLLOWING PAGES, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH AT THIS PLACE.

It is hereby certified and recited that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this Bond did exist, have happened, been done and performed in regular and due form and time as required by law.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until it shall have been authenticated by the execution by the Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City has caused this Bond to be signed by the manual or facsimile signature of its Mayor of the City and to be countersigned by the manual or facsimile signature of its City Finance Officer all as of the Bond Date specified above.

ATTEST:

City of Spearfish, South Dakota

By:

City Finance Officer

Mayor

COUNTERSIGNED:

Resident Attorney

CERTIFICATE OF AUTHENTICATION

This bond is a bond of the series designated therein and has been issued under the provisions of the within-mentioned Resolution and the date of its authentication is _____, 2020.

Bond Registrar and Paying Agent

By: _____

KNOW ALL MEN BY THESE PRESENTS: That the City of Spearfish, Lawrence County, South Dakota, (the "City") hereby acknowledges itself to owe and for value received promises to pay the Principal Amount, to the Registered Owner mentioned above in lawful money of the United States of America, together with interest thereon from the Bond Date mentioned above at the Interest Rate mentioned above. The interest hereon is payable _____ and semiannually thereafter on _____ and _____ in each year to maturity or earlier redemption by wire transfer, check or draft mailed to the Registered Owner at its address as it appears on the Bond registration books of the City maintained by U.S. Bank National Association, St. Paul, Minnesota, as Bond registrar and paying agent (the "Registrar"), on the close of business on the _____ day (whether or not a business day) of the calendar month next preceding such interest payment date (the "Record Date"). The principal hereof due at maturity or upon redemption prior to maturity is payable at the office of Registrar upon presentation and surrender of this Bond at maturity or upon earlier redemption. The principal of, premium (if any) and interest on this Bond is payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

This Bond is one of an authorized issue of Bonds limited in aggregate principal amount to a maximum of \$10,000,000 (the "Bonds") the proceeds of this issue (Series 2020) will be used for the purpose of providing funds to fund capital projects inside the City of Spearfish; road, water, sewer, grading and pay the costs of issuance of Bonds, pursuant to a resolution duly and regularly adopted by the City (the "Resolution"), and are subject to all the provisions and limitations of the Resolution and Chapters 10-52 and 6-8B, South Dakota Codified Laws, as amended. The City has pledged and agreed to collect, so long as the Bonds are outstanding, the City's two (2) percent on the gross receipts of all persons engaged in the 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 acts amendatory thereto and the two (2) excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of tangible personal property or services which are subject to the South Dakota Use Tax Act, SDCL Ch. 10-46 and acts amendatory thereto (the "Sales Tax") in an amount sufficient to pay principal, premium and interest when due on the Bonds.

[Redemption Provisions]

This Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the office of the Bond Registrar in St. Paul, Minnesota, but only in the manner, subject to the limitations and upon payment

of the charges provided in the Bond Resolution, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefore.

The City and the Bond Registrar may deem and treat the registered holder hereof as the absolute owner hereof and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

Additional Debt: 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; (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.

Bank Qualification: The City has in the Resolution designated such issue of Bonds as “qualified tax-exempt obligations” pursuant to Section 265(b)(3)(B)(III) of the Internal Revenue Code of 1986, as amended.

BOND OPINION

\$ _____
City of Spearfish
Lawrence County, South Dakota
Sales Tax Revenue Bonds, Series 2020

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Spearfish (the “Issuer”) of \$ _____ Sales Tax Revenue Bonds, Series 2020, dated _____, 2020, (the “Bonds”). We have examined such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify such facts by independent investigation.

Based upon the foregoing, we are of the opinion that, under existing law:

1. The Issuer is duly created and validly existing as a body corporate and politic and public instrumentality of the State of South Dakota with the corporate power to adopt and perform the Resolution and issue the Bonds.

2. Resolution _____ has been duly adopted by the Issuer on _____, 2020 and constitutes a valid and binding special obligation of the Issuer enforceable upon the Issuer.

3. The Resolution pledges the City’s two (2) percent on the gross receipts of all persons engaged in the 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 acts amendatory thereto and the two (2) excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of tangible personal property or services which are subject to the South Dakota Use Tax Act, SDCL Ch. 10-46 and acts amendatory thereto. City’s Sales Tax collected in each year, excluding any collections of the Third Penny Tax imposed by _____ of the City of Spearfish Code of Ordinances (the “Sales Tax”) in an amount sufficient to pay principal, premium and interest when due on the Bonds.

4. The interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence are subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986 as amended, that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Issuer has covenanted to comply

with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

5. The Bonds are exempt from all taxation as property by the State of South Dakota except for estate inheritance taxes, and taxes imposed upon financial institutions.

6. The Bonds are qualified tax-exempt obligations within the meaning of Section 265(b)(3)(B)(i)(III) of the Code. The Bonds are eligible for purchase by financial institutions.

It is to be understood that the rights of the holders of the Bonds and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity and subject to regulatory requirements under the laws of the United States and of the State of South Dakota.

Meierhenry Sargent LLP

AS PROVIDED IN THE RESOLUTION REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE RESOLUTION, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE RESOLUTION TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS CERTIFICATE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS CERTIFICATE MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE RESOLUTION.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY CERTIFICATE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

NOTICE: The signature to this Assignment must correspond with the name as it appears upon the face of the

within Certificate in every particular, without alteration or enlargement or any change whatever.

ATTACHMENT TO RESOLUTION

Post-Issuance Compliance Policy for Tax-Exempt and Tax-Advantaged Obligations and Continuing Disclosure

Definitions

“Compliance Officer” means the Finance Officer of the Issuer.

“Issuer” means the City of Spearfish, South Dakota.

Statement of Purpose

This Post-Issuance Compliance Policy (the “Policy”) sets forth specific policies of the Issuer designed to monitor post-issuance compliance:

(i) with applicable provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations promulgated thereunder (“Treasury Regulations”) for obligations issued by the Issuer on tax-exempt or tax-advantaged basis (“Obligations”); and

(ii) with applicable requirements set forth in certificates and agreement(s) (“Continuing Disclosure Agreements”) providing for ongoing disclosure in connection with the offering of obligations to investors (“Offerings”), for obligations (whether or not tax- exempt I tax-advantaged) subject to the continuing disclosure requirements of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (“SEC”) under the Securities Exchange Act of 1934.

This Policy documents practices and describes various procedures and systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations continue to be eligible to be excluded from gross income for federal income tax purposes or that the Obligations continue to receive tax-advantaged treatment. The federal tax law requirements applicable to each particular issue of Obligations will be detailed in the arbitrage or tax certificate prepared by bond counsel and signed by officials of the Issuer and the post-closing compliance checklist provided by bond counsel with respect to that issue. This Policy establishes a permanent, ongoing structure of practices and procedures that will facilitate compliance with the requirements for individual borrowings.

This Policy similarly documents practices and describes various procedures and systems designed to ensure compliance with Continuing Disclosure Agreements, by preparing and disseminated related reports and information and reporting “material events” for the benefit of the holders of the Issuer's obligations and to assist the Participating Underwriters (within the meaning of the Rule) in complying with the Rule.

The Issuer recognizes that compliance with pertinent law is an on-going process, necessary during the entire term of the obligations, and is an integral component of the Issuer's debt management. Accordingly, the analysis of those facts and implementation of the Policy will require on-going monitoring and consultation with bond counsel and the Issuer's accountants and advisors.

General Policies and Procedures

The following policies relate to procedures and systems for monitoring post-issuance compliance generally.

- A. The Compliance Officer shall be responsible for monitoring post-issuance compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. All documents and other records relating to Obligations issued by the Issuer shall be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable Internal Revenue Service ("IRS") requirements, such as those contained in Revenue Procedure 97-22.
- D. The Compliance Officer shall be aware of options for voluntary corrections for failure to comply with post-issuance compliance requirements (such as remedial actions under Section 1.141-12 of the Regulations and the Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program) and take such corrective action when necessary and appropriate.
- E. The Compliance Officer will review post-issuance compliance procedures and systems on a periodic basis, but not less than annually.

Issuance of Obligations - Documents and Records

With respect to each issue of Obligations, the Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").
- B. Confirm that bond counsel has filed the applicable information report (e.g., Form 8038, Form 8038-G, Form 8038-CP) for such issue with the IRS on a timely basis.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations with other applicable staff members of the Issuer.

Arbitrage

The following policies relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

- A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript.
- B. Confirm that a computation of the yield on such issue from the Issuer's financial advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.
- C. Maintain a system for tracking investment earnings on the proceeds of the Obligations.
- D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.
- E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations.
- F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.
- H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts.
- J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.
- K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.
- L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.
- M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

Private Activity Concerns

The following polices relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

- A. Maintain records determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility.
- B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.
- D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.
- E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:
 - 1. Sale of the facilities, including sale of capacity rights;
 - 2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;
 - 3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;
 - 4. Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot);
 - 5. Joint-ventures, limited liability companies or partnership arrangements;
 - 6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users);
 - 7. Development agreements which provide for guaranteed payments or property values from a developer;
 - 8. Grants or loans made to private entities, including special assessment agreements; and
 - 9. Naming rights arrangements.

Monitoring of private use should include the following:

- 1. Procedures to review the amount of existing private use on a periodic basis; and

2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

If the Compliance Officer identifies private use of facilities financed with tax-exempt or tax-advantaged debt, the Compliance Officer will consult with the Issuer's bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

Qualified Tax-Exempt Obligations

If the Issuer issues qualified tax-exempt obligations in any year, the Compliance Officer shall monitor all tax-exempt financings (including lease purchase arrangements and other similar financing arrangements and conduit financings on behalf of 501(c)(3) organizations) to assure that the \$10,000,000 "Small Issuer" limit is not exceeded.

Federal Subsidy Payments

The Compliance Officer shall be responsible for the calculation of the amount of any federal subsidy payments and the timely preparation and submission of the applicable tax form and application for federal subsidy payments for tax-advantaged obligations such as Build America Bonds, New Clean Renewable Energy Bonds and Qualified School Construction Bonds.

Reissuance

The following policies relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

Record Retention

The following policies relate to retention of records relating to the Obligations Issued. The Compliance Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.
- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:

1. The Transcript relating to the transaction (including any arbitrage or other tax certificate and the bond counsel opinion);
2. Documentation evidencing expenditure of proceeds of the issue;
3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation.
4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreements and research agreements);
5. Documentation evidencing all sources of payment or security for the issue; and
6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).

D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.

E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

Continuing Disclosure

Under the provisions of SEC Rule 15c2-12 (the “Rule”), Participating Underwriters (as defined in the Rule) are required to determine that issuers (such as the Issuer) have entered into written Continuing Disclosure Agreements to make ongoing disclosure in connection with Offerings subject to the Rule. Unless the Issuer is exempt from compliance with the Rule or the continuing disclosure provisions of the Rule as a result of certain permitted exemptions, the Transcript for each issue of related obligations will include a Continuing Disclosure Agreement executed by the Issuer.

In order to monitor compliance by the Issuer with its Continuing Disclosure Agreements, the Compliance Officer will, if and as required by such Continuing Disclosure Agreements:

A. Assist in the preparation or review of annual reports (“Annual Reports”) in the form required by the related Continuing Disclosure Agreements.

B. Maintain a calendar, with appropriate reminder notifications, listing the filing due dates relating to dissemination of Annual Reports, which annual due date is generally expressed as a date within a certain number of days (e.g., 365 days) following the end of the Issuer’s fiscal year (the “Annual Report Due Date”), as provided in the related Continuing Disclosure Agreements.

C. Ensure timely dissemination of the Annual Report by the Annual Report Due Date, in the format and manner provided in the related Continuing Disclosure Agreements, which may include

transmitting such filing to the Municipal Securities Rulemaking Board (“MSRB”) through the Electronic Municipal Market Access (“EMMA”) System at www.emma.msrb.org in the format prescribed by the MSRB.

D. Monitor the occurrence of any “Material Event” (as defined in the Continuing Disclosure Agreements) and timely file notice of the occurrence of any such Material Event in the manner provided under the Continuing Disclosure Agreements. To be timely filed, such notice must be transmitted within 10 days (or such other time period as set forth in the Continuing Disclosure Agreements) of the occurrence of such Material Event.

E. Ensure timely dissemination of notice of any failure to perform under a Continuing Disclosure Agreement, if and as required by the Continuing Disclosure Agreement.

F. Respond to requests or ensure that the Issuer Contact (as defined in the Continuing Disclosure Agreement) responds to requests, for information under the Rule, as provided in the Continuing Disclosure Agreements.

G. Monitor the performance of any dissemination agent(s) engaged by the Issuer to assist in the performance of any obligation under the Continuing Disclosure Agreements.

PASSED and ADOPTED by the City of Spearfish, South Dakota, this 17th day of August, 2020.

Dana Boke, Mayor

ATTEST:

Michelle DeNeui, Finance Officer

(SEAL)

Resolution 2020-22 – Klarenbeek moved, Eisenbraun seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to adopt Resolution 2020-22 as follows:

RESOLUTION 2020-22

RESOLUTION GIVING APPROVAL TO THE ISSUANCE AND SALE OF TAXABLE WASTEWATER REVENUE BONDS, SERIES 2020, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED THREE MILLION THREE HUNDRED THOUSAND (\$3,300,000) OF THE CITY OF SPEARFISH OF LAWRENCE COUNTY, SOUTH DAKOTA, APPROVING THE TERMS AND PLEDGING CERTAIN REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE BONDS; AND RETIREMENT OF THE REFUNDED BOND.

WHEREAS, the City of Spearfish is authorized by the provisions of SDCL §§ 6-8B-30 through 6-8B-52 to issue Taxable Wastewater Revenue Bonds, Series 2020 to refund and refinance validly issued outstanding Clean Water Revenue Borrower Bond, Series 2008 (the “Refunded Bond”) of the City; and

WHEREAS, the City Council has determined that refunding the clean water utility revenue bond of the City will reduce the interest expense to the City; and

WHEREAS, the City Council has determined that is necessary and in the best interest of the City to issue Taxable Wastewater Revenue Bonds, Series 2020, for the purpose of providing funds to (i) refund the outstanding Clean Water Revenue Borrower Bond, Series 2008 (the “Refunded Bond”), and (ii) to pay the costs of issuance of the Bonds described herein.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPEARFISH OF LAWRENCE 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 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 \$3,300,000 in aggregate principal amount of Taxable Wastewater Revenue Bonds, Series 2020, dated 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 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.

“Bond Payment Date” means each date on which interest, or both principal and interest, 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 Purchaser.

“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.

“City” means the City of Spearfish, Lawrence County, South Dakota.

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

“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.

“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.

“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 the Finance Officer or his or her 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 Colliers Securities LLC acting for and on behalf of itself and such securities dealers as it may designate.

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

“Purchaser” means Truist Bank, 5130 Parkway Plaza Blvd., Charlotte, NC 28217.

“Record Date” means the dates preceding an Interest Payment Date upon which the Holder will be determined for payment purposes.

“Refunded Bond” means the Clean Water Revenue Borrower Bond, Series 2008 dated March 28, 2008.

“Registration Agent” means Finance Officer or his or her successor or successors hereafter appointed in the manner provided in Article VI hereof.

“Resolution” means this Bond Resolution.

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

“Series 2008 Bonds” means the City’s outstanding Clean Water Revenue Borrower Bond, Series 2008 dated March 28, 2008.

“System” means The City’s clean water utility (the “Utility System”) provides waterworks for the purpose of providing water and water supply for municipal, industrial, and domestic purposes and has determined that improvements to the waterworks are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its waterworks system.

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 refunding of the Refunded Bond as set forth herein through the issuance of the Bonds will result in the reduction in debt service payable by the City over the term of the Refunded Bond thereby effecting a cost savings to the public;

(b) It is advantageous to the City to deposit a portion of the proceeds from the sale of the Bonds and other funds of the City, if any, with the paying agent of the Refunded Bond, that will be sufficient to pay principal of, premium, if any, and interest on the Refunded Bond.

(c) 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 §§ 6-8B-30 to 6-8B-52, inclusive.

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

Section 3.1. Authority. In order to (i) refund the Refunded Bond and (ii) pay 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, the Bond Resolution, and other applicable provisions of law, Taxable Wastewater Revenue Bonds, Series 2020 of the City in the aggregate principal amount of not to exceed \$3,300,000.

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 and shall be used for no other purpose than to pay the principal of and interest on the Bonds, except as may be otherwise expressly authorized by this Resolution (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 Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Bond, provided that such determination of allocable operation and maintenance expenses.

Section 3.3. Rates and collection There shall be charged rates for each fiscal year which shall ensure that its Net Revenues Available for Debt Service will equal at least 110% of its System Debt Service for such fiscal year.

Section 3.4. Segregation. The Finance Officer shall setup bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue.

Section 3.5. Periodic review. The wastewater rates shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the rate covenant and to pay principal of and interest on the Bonds when due. The rates may be set by ordinance or resolution in accordance with this section. The rate ordinance or resolution shall be necessary for the support of government and shall be effective upon passage.

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 the Bond Resolution shall not exceed Three Million Three Hundred Thousand Dollars (\$3,300,000).

Section 4.2. Form of Bonds; Execution.

(a) The Bonds are issuable only as fully registered Bonds, without coupons, in the denomination of one penny (\$0.01) or any integral multiple thereof.

(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 “Taxable Wastewater 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 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. Each bond shall state that it is issued in full compliance with SDCL §§ 6-8B-30 to 6-8B-52.(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.

Section 4.4. Additional Bonds. As permitted by SDCL 9-40-8 and SDCL 9-40-9, Additional Bonds payable from revenues and income of the Project may be issued as provided in the Bond Purchase Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the 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 \$0.01 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.

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 Purchaser 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. Placement Agent. The Mayor and Finance Officer are authorized to retain Colliers Securities LLC as the Placement Agent for the Bonds upon such terms as they approve.

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 District to retain a dissemination agent with regard to the written undertaking authorized in Section 10.7 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 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 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. The Bonds shall be sold to the Purchaser 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 Purchaser, are authorized to make such changes in the structuring of the terms and sale of the Bonds as they shall deem necessary to maximize the savings from the refunding of the Refunded Bond. In this regard, they, or either of them, in consultation with the Purchaser, are authorized to cause to be sold an aggregate principal amount of the Bonds less than that authorized herein, cause fewer than all the Refunded Bond to be refunded, 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 President, or either of them, are hereby authorized to execute and the Finance Officer is authorized to attest the Bond Purchase Agreement with the Purchaser providing for the purchase and sale of the Bonds. The Bond Purchase Agreement 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 any of them, are authorized to cause the Bonds to be authenticated and delivered by the Registration Agent to the Purchaser 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. 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, will be sufficient to redeem on the earliest possible date, the Refunded Bond, shall be transferred to the Paying Agent; and

(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.

ARTICLE IX. NOTICE OF REFUNDING

Section 9.1 Notice of Refunding. After the issuance of the Bonds, notice of the City's intention to refund the Refunded Bond shall be shall be posted on <http://emma.msrb.org>, if necessary, and be given, at the direction of the Finance Officer, by the respective paying agents for the Refunded Bond, to the respective Registered Owners of the Refunded Bond. Such notice shall be in substantially the form as provided in Exhibit B attached hereto and by this reference made a part hereof.

ARTICLE X. MISCELLANEOUS

Section 10.1. 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 10.2. 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 10.3. 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 10.4. 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 10.5. 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 10.6. 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 10.7. 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 with regard to the Bonds. The City appoints the Finance Officer as its chief post issuance compliance officer.

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

Section 10.9. 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 Klarenbeek, seconded by Eisenbraun and upon roll call vote, Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voted aye, and none voted nay, with no members absent:

whereupon the Mayor declared this Resolution to be duly passed and adopted.

Dana Boke, Mayor

Attest:

Michelle DeNeui, Finance Officer

Adopted: August 17, 2020
Published: August 22, 2020
Effective Date: September 11, 2020

Agent – Hodgs moved, Jacobs seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to engage Colliers Securities LLC as the Placement Agent for the refunding of the 2008 Wastewater Treatment SRF Bond and authorize staff to sign the Placement Agent Agreement.

Resolution 2020-18 – Eisenbraun moved, Jacobs seconded all voted to adopt Resolution 2020-18 as follows:

RESOLUTION NO. 2020-18

A RESOLUTION ESTABLISHING THE BOUNDARIES OF TAX INCREMENT FINANCE DISTRICT NUMBER SIX, CITY OF SPEARFISH, FOR THE LAND AREA MORE SPECIFICALLY DESCRIBED HEREIN.

WHEREAS, per SDCL 11-9-8 the City of Spearfish has found that (1) not less than fifty percent, by area, of the real property within the district will stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources development. Per SDCL 13-13-10.8 through SDCL 13-13-10.10 inclusive, the use of tax increment financing for affordable housing purposes is authorized and in equal standing with industrial and economic development in the calculation of school funding, and (2) the improvement of the area is likely to significantly enhance

the value of substantially all other real property in the district because the existing use of the land is open space but will be developed as a residential community with recreation amenities.

WHEREAS, The City of Spearfish desires to create a Tax Increment Finance District for the purposes of stimulating the general economic welfare to the state and to the citizens of Spearfish, and to significantly enhance the value of substantially all other real property in the district.

WHEREAS, on the 17th day of August, 2020, a tax increment district was formed and shall be known as Tax Increment District Number Six, City of Spearfish.

NOW, THEREFORE BE IT RESOLVED by the Common Council of the City of Spearfish, Lawrence County, South Dakota, that the following described territory be and the same is hereby included Increment District Number Six and the boundaries of the same are as set forth in Exhibit A and Exhibit B attached hereto.

Dated this 17th day of August, 2020

CITY OF SPEARFISH

By: _____
Dana Boke, Mayor

ATTEST:

Michelle DeNeui, Finance Officer (SEAL)

Adopted: August 17, 2020
Published: August 18, 2020
Effective: August 28, 2020

EXHIBIT A

CITY OF SPEARFISH RESOLUTION 2020-18
Tax Increment Finance District #6 Boundary
Legal Descriptions

1. Tract V-1 of Sky Ridge Subdivision a Part of Tract V of Elkhorn Ridge Addition to the City of Spearfish, located in the NW1/4 of Section 22, T6N, R3E, BHM, Lawrence County, South Dakota as shown on the recorded plat in the office of the Lawrence County Register of Deeds.
2. The South 17 feet of the North 50 feet of the NE1/4, Section 21, T6N, R3E, B.H.M., Elkhorn Ridge Addition, City of Spearfish, Lawrence County, South Dakota as shown on recorded document 2020-00808 in the office of the Lawrence County Register of Deeds

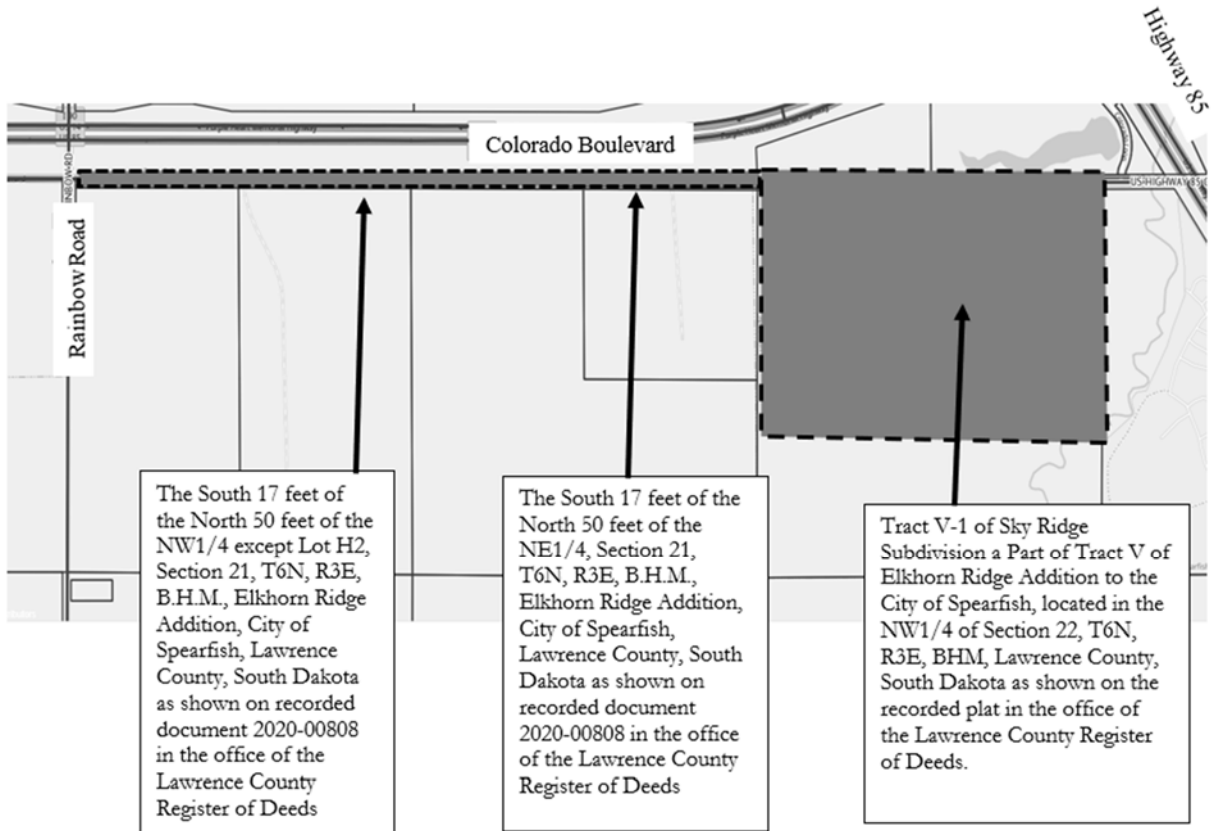
3. The South 17 feet of the North 50 feet of the NW1/4 except Lot H2, Section 21, T6N, R3E, B.H.M., Elkhorn Ridge Addition, City of Spearfish, Lawrence County, South Dakota as shown on recorded document 2020-00808 in the office of the Lawrence County Register of Deeds
4. The public right of way and section line easements immediately adjacent to the above legal descriptions, except Lot H2, Section 21, T6N, R3E, B.H.M., Lawrence County, South Dakota

See attached map

EXHIBIT B

CITY OF SPEARFISH RESOLUTION 2020-18
Tax Increment Finance District #6 Boundary

The boundary includes all Colorado Boulevard easements and rights of way adjoining the lots as noted below.



Bill List – Klarenbeek moved, Jacobs seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to approve the bill list dated August 17, 2020 as follows:

<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
ALLIED CONSTRUCTION	80% BLDG PERMIT FEE REFUND	\$ 775.20

3D SPECIALTIES INC	PARTS/EQUIP	\$ 4,521.06
3RD DEGREE SCREENING IN	PRE EMPLOYMENT SCREENING	\$ 27.50
A & B WELDING SUPPLY CO	FORKLIFT REPAIR/PROPANE/PARTS	\$ 420.60
A & J SUPPLY	HINGES AND SNAPS	\$ 139.12
A&B BUSINESS INC	COMPUTER PARTS	\$ 2,529.06
AE2S	JACKSON BLVD ST/UTILITY IMP	\$ 17,916.43
AGA	AGA INTERNAL CONTROL TRAINING	\$ 300.00
ALLEGIANT EMERGENCY S	APPAREL	\$ 2,195.76
AMAZON CAPITAL SERVICES	ASSORTED SUPPLIES	\$ 1,972.65
AMERICAN RED CROSS	FIRST AID/BASIC LIFE SUPPORT	\$ 31.00
WESTERN STATES FIRE		
PROTECTION	MONITORING SERVICE	\$ 720.00
ASSOCIATED SUPPLY CO INC	80# BAG DIAMOND BRITE	\$ 202.76
BAKER & TAYLOR	BOOKS	\$ 313.53
BELLE FOURCHE LANDFILL	JULY 2020 SOLID WASTE DISPOSAL	\$ 32,821.02
BELLE FOURCHE		
IRRIGATION DIST.	EXCAVATION WORK/LABOR	\$ 1,302.00
BLACK HILLS ENERGY	JUN/JUL 2020 ELECTRIC	\$ 24,009.08
BHSU PRINTING CENTER	JULY 2020	\$ 223.79
BLACK HILLS CHEMICAL COR	JANITORIAL	\$ 3,599.57
BLACK HILLS PIONEER	HR ADVERTISING/LEGALS	\$ 1,168.06
BLACK HILLS PURE INC	COOLER RENTAL/WATER	\$ 34.50
BLACK HILLS VIDEO	50% DEPOSIT DUE	\$ 1,863.75
BLACK HILLS WINDSHIELD	REPAIRS	\$ 1,135.00
BORDER STATES INDUSTRIES	ELECTRICAL PARTS	\$ 81.50
BRITTEN, INC	LIGHT POLES AND BANNER BRACKETS	\$ 10,580.66
BROWN, HEATH G	JULY 2020 WILDLAND ASSIGN	\$ 214.00
BSN SPORTS LLC	NET AND TETHERBALL	\$ 183.38
BUILDERS FIRSTSOURCE INC	LUMBER	\$ 43.40
BUTLER MACHINERY CO	PARTS	\$ 304.84
BUTTE ELECTRIC COOP	ELECTRIC 5/24/2020 - 6/24/2020	\$ 46,413.44
CBH COOPERATIVE	JUNE 2020 GAS/DIESEL	\$ 18,151.53
CHAIN SAW CENTER	OIL; TRIMMER LINE/PARTS	\$ 247.20
CITY OF SPEARFISH CC	OFFICE/TRAVEL/DUES/TECH/EQUIP	\$ 3,095.23
CLAUSER MACHINE WORKS	REPAIRS/PARTS	\$ 5,504.71
CLIMATE CONTROL SYSTEMS	2ND QTR CITY HALL MAINTENANCE	\$ 2,413.00
COCA-COLA BOTTLING CO	COFFEE/CONCESSIONS	\$ 837.00
CUSTOM FIRE APPARATUS IN	PARTS	\$ 40.10
CVD CONSTRUCTION INC	LABOR/MATERIALS/EQUIP	\$ 1,430.00
DAKOTA FLUID POWER INC	COMPRESSOR FLUID	\$ 156.00
DAKOTA PUMP INC	SCADA COMPUTER REPAIR	\$ 382.65
DEMCO INC	BOOK JACKETS/LABELS	\$ 469.21
DEZURIK INC	PACKING PRESS PARTS	\$ 180.00
ECOLAB PEST ELIMINATION	RODENT PROGRAM/AIR CARE	\$ 566.34
ELITE INDUSTRIAL LLC	4 GENERATOR BEARING SEALS	\$ 1,000.00

ET SPORTS, LLC	SHIFT CABLE REPAIR	\$ 30.00
NEWHOUSE ENTERPRISES IN	(10) CASES PAPER	\$ 359.90
FIB - TRAVEL CARDS	ROOMS, FUEL/LODGING - 3 FIRES	\$ 3,565.94
FIB-AP PURCHASE CARDS	ITEMIZED BY VENDOR, \$172,253.13	\$ -
EDDIE'S TRUCK CENTER	SRPING PIN AND BUSHING	\$ 317.55
GALLS LLC	NAMEPLATE/SUPPLIES	\$ 306.07
VIEHAUSER ENTERPRISES LL	SVC CALLS/PARTS/LABOR	\$ 161.50
THE GLASS SHOP	PLEXI/PD	\$ 121.55
GRAINGER INC	PARTS/SIGNAGE	\$ 152.38
HAGEMAN, THOMAS	PER DIEM MEALS	\$ 298.00
HAGGERTYS MUSICWORKS	SPEAKER CABLE	\$ 49.99
HAWKINS INC	BLEACH	\$ 289.50
HDR ENGINEERING INC	SANDSTONE ST REP & SEWER/WWTP LIFT	\$ 16,681.90
HEARTLAND PAPER CO	JANITORIAL	\$ 441.06
THE ICE MAN LLC	ICE	\$ 1,313.10
IIMC	MEMBERSHIPS	\$ 280.00
JENNER EQUIPMENT CO	MIRROR AND TURNLIGHT	\$ 86.64
TODD EMERY COLLINS	SVC CALL, PUBLIC RR	\$ 160.00
JOLOVICH, CODY	PER DIEM MEALS	\$ 260.00
JUNEK'S SERVICE CORP	PARTS/LABOR	\$ 56.78
KIEFER ENTERPRISES, INC	GARBAGE DISPOSAL	\$ 500.00
KLJ SOLUTIONS HOLDING CO	WILDLIFE FENCE/XWIND RUNWAY/X8	\$ 56,552.41
KONE INC	3RD QTR MAINTENANCE AGREE	\$ 167.56
MONTANA-DAKOTA UTILITI	7/10/20 - 8/6/20 NATURAL GAS	\$ 1,149.78
MIDCO	CABLE/BUS INTERNET/PHONE	\$ 924.03
MIDCONTINENT TESTING LA	JULY 2020 WATER TESTING	\$ 635.00
MONEY MOVERS	JULY 2020 MAINTENANCE FEE	\$ 7.00
MUTH ELECTRIC INC	LIGHTPOLE	\$ 8,374.00
NIHCA	ANNUAL MEMBERSHIP	\$ 99.00
NRPA	MEMBERSHIP	\$ 175.00
SOUTH DAKOTA ONE CALL	JULY 2020 MESSAGE FEES	\$ 211.05
PENTECOST, VINCENT	REFUND CAMPGROUND	\$ 45.00
PAUL, JACOB	PER DIEM MEALS	\$ 260.00
PITNEY BOWES INC	3RD QTR METER RENTAL	\$ 180.00
PETTY CASH	PLAT FILING FEES	\$ 310.00
PRECISION MECHANICAL LLP	RECLAIM UNITS	\$ 1,120.00
QUEEN CITY DOOR LLC	PARTS/LABOR	\$ 153.06
QUIK SIGNS INC	SIGNS/BANNER	\$ 301.23
RAMAKER & ASSOC INC	SUPPORT 10/2020 - 10/2021	\$ 450.00
RAPID DELIVERY	JULY 2020	\$ 272.93
REED, THERESA DAWN	JANITORIAL DOWNTOWN RR	\$ 465.00
RAPID CITY REGIONAL HOSPI	SCREENING AND RABIES VAC	\$ 1,026.00
THOMAS W NICHOLS	AWOS INSPECTION	\$ 800.00
RUNNING SUPPLY INC	PARTS/BATTS	\$ 54.63
SD DEPARTMENT OF AGRICU	APPAREL/EQUIPMENT	\$ 6,940.25

SD DEPT OF HEALTH	JULY 2020	\$ 90.00
SDRS SPECIAL PAY PLAN	PARTICIPANT: G NICHOLAS	\$ 45.00
SERVALL TOWEL & LINEN	JANITORIAL	\$ 645.76
SHARKEY PLUMBING HEAT	SVC CALL	\$ 287.00
SONNEL TECHNOLOGIES LLC	LIGHTS AND SIREN	\$ 11,819.24
SD DEPT OF LABOR	QTR ENDING JUNE 30 2020 UNEMPLOY	\$ 1,610.08
SOUTH DAK STATE TREASUR	JULY 2020 SALES TAX	\$ 16,815.03
SPEARFISH CHAMBER OF CO	MEMBER DIRECTORY	\$ 350.00
VIVI BENE INC	ELEC PARTS/LABOR/REPAIRS	\$ 1,995.32
SPEARFISH GLASS INC	PLEXI/PD	\$ 121.55
JOSEPH B MILLER	CARB KIT	\$ 20.00
STAMPS.COM	SCALE/PRINTER KIT	\$ 131.45
STAN HOUSTON EQUIPMENT	PERMAPATCH	\$ 1,514.68
STATE OF SD-EXECUTIVE M	JULY 2020 CENTREX FEES	\$ 16.39
SUNDANCE ENGINEERING	SIEMENS SITRANS FLOWMTR	\$ 6,962.50
SUNSHINE TOWING	SVC CALL	\$ 163.25
TRAFFIC & PARKING CONTR	TRAFFIC BEADS	\$ 2,105.00
THOMSON REUTERS WEST	JUNE 2020 DATABASE CHGS	\$ 717.38
PRODUCTIVITY PLUS ACCT	PARTS	\$ 644.25
TRUGREEN CHEMLAWN	2020-10 WEED CONTROL	\$ 5,557.23
TTG ENTERPRISES INC	SCADA SYSTEM UPGRADE	\$ 5,418.34
ALB TWILIGHT LLC	FIRST AID SUPPLIES	\$ 897.62
TYLER TECHNOLOGIES INC	FORMS OVERLAY/PRINTER MAINT/SUPPORT	\$ 1,046.39
ULINE INC	5X10 BAG ON ROLL	\$ 58.22
THE UPS STORE #5137	SHIPPING	\$ 60.93
CITY OF SPEARFISH	JUNE 2020 W/S/G	\$ 46,496.08
CLARITY TELECOM LLC	6-16 TO 7-15 PHONE/INTERNET	\$ 4,679.69
VERIZON WIRELESS	5/24 - 6/23 WIRELESS	\$ 4,389.54
VISIT SPEARFISH INC	BID BOARD ALLOCATION	\$ 17,002.00
VISUAL WORKS INC	ONLINE RESERVATION FEES	\$ 1,270.00
WELLS PLUMBING CORP	PARTS	\$ 207.62
WESTERN DIGITAL TECHNOL	2 TB HARD DRIVE	\$ 78.59
INTEGRITY ACQUISITION	PARTS/LABOR	\$ 2,686.94
		<hr/>
		\$ 432,523.49
		<hr/>

2021 Budgets – 2021 budgets for the departments of City Administration, City Attorney, Finance and Parks and Recreation were presented.

Public comment section was opened at 7:28 p.m. with comments received from David and Megan Berberick regarding pre-employment practices, Joe Jorgensen regarding swimming in Spearfish Creek and Mistie Caldwell regarding grant funding to Visit Spearfish. Public comment section was closed at 7:43 p.m.

There being no further business, Clark moved, Jacobs seconded and all voted to adjourn at 7:43 p.m.

Dated this 17th day of August 2020.

CITY OF SPEARFISH

By: _____
Dana Boke, Mayor

ATTEST:

Michelle DeNeui, Finance Officer

Published once at the approximate cost of _____.