



**Spearfish City Council**  
Regular Session Minutes  
March 6, 2023 5:30 p.m.

The Spearfish City Council met at 5:30 p.m. on Monday, March 6, 2023. Mayor Senden presided and called the meeting to order. Roll call was taken with the following members present: Clark, Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath. Absent: none. Also present: City Administrator McFarland, City Attorney McDonald, Finance Officer DeNeui, Chief of Police Jacobs, Public Works Director Broyles, City Planner Kapsa, Parks Maintenance and Forestry Superintendent McDonald, City Engineer Mathis, and Assistant Public Works Director McMahon. All stood and recited the pledge of allegiance.

Hodgs moved, Jacobs seconded and all voted to approve the agenda as presented. No potential conflicts of interest were noted.

**Public Comment** – At 5:32 p.m. a time for public comment was opened. Comments were received from Kaylisa Tanninen, Belle Fourche SD, regarding a Target store, an ice rink, and land. No further comments were received and the time for public comment was closed.

**Consent Agenda** – Clark moved, Rath seconded, and all voted to approve the consent agenda as follows:

- A. Approve the minutes of the City Council regular session dated February 21, 2023.

**Other Items**

**Amended Agreement** – Hodgs moved, Rath seconded and with Clark, Hodgs, Hourigan, Jacobs, and Rath voting aye and Klarenbeek voting nay, motion passed to approve the Fourth Amendment to Development Agreement with Dream Design International.

**Resolution 2023-09** – Jacobs moved, Clark seconded and all voted to approve Resolution 2023-09 as follows:

**RESOLUTION 2023-09**

**A RESOLUTION OF INTENT TO ENTER INTO A LEASE AGREEMENT FOR THE  
BLACK HILLS ENERGY STADIUM**

**WHEREAS**, SDCL § 9-12-5.2 authorizes the City of Spearfish to lease municipally owned property to a private person, and

**WHEREAS**, the Common Council of the City of Spearfish intends to enter into a lease agreement with Diamond Enterprises, LLC to lease the Black Hills Energy Stadium for Sasquatch baseball, and

**WHEREAS**, a copy of such lease agreement is on file in the Finance Office and available for public inspection,

**NOW THEREFORE, BE IT RESOLVED** by the Common Council of the City of Spearfish that the Council intends to enter into such lease, and a public hearing for considering the same shall be conducted at 5:30 p.m. on March 20, 2023.

Dated this 6th day of March, 2023.

**CITY OF SPEARFISH**

(seal)

By: \_\_\_\_\_  
John Senden, its Mayor

Attest:

\_\_\_\_\_  
Michelle DeNeui, Finance Officer

Adopted: March 6, 2023

Published: March 10, 2023

Effective: March 30., 2023

**Recertification** - Approve the Community Rating System (CRS) CC-213 Recertification, FEMA Form for 2023.

**Transfer** – A public hearing was opened at 5:43 p.m. to consider an application by Nick Reid for the transfer of a retail (on-off sale) wine and cider license from Creekside Bean and Vine LLC to Pure Bean located at 2545 Yukon Place. No oral or written comments were received and the hearing was closed. Clark moved, Jacobs seconded and all voted to approve the license transfer.

**Resolution 2023-03** – Hodgs moved, Hourigan seconded and all voted to adopt Resolution 2023-03 as follows:

**RESOLUTION NO. 2023-03**

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

**WHEREAS**, one of the purposes of SDCL Chapter 9-40 (the “Act”) as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

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

**WHEREAS**, the City of Spearfish (the “City”) currently operates a sewer system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; and for the control of floods and drainage and has determined that improvements to the sewer facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its sewer system; and,

**WHEREAS**, the City has determined to issue its revenue bonds to finance the improvements to its sewer system for the purpose of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes (the “System”) and has applied to the South Dakota Conservancy District (the “District”) for a Clean Water State Revolving Fund Loan to finance the improvements;

**WHEREAS**, the City shall adopt special rates or surcharges for the improvements to be pledged, segregated and used for the payment of the Bonds.

**NOW THEREFORE BE IT RESOLVED** by the City as follows:

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

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

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

**“Project”** means the City of Spearfish Wastewater Conveyance and Treatment Improvements Project.

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

**“System”** means the City’s system of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes.

**SECTION 2. Declaration of Necessity and Findings.**

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

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

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

**2.2.2.** Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-2, and the federal Clean Water Act, and the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

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

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

**3.1. Authorization of Loan.** The City hereby determines and declares it necessary to finance up to \$5,964,700 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

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

**3.3. Approval of Revenue Bond.** The issuance of a revenue bond in a principal amount not to exceed \$5,964,700 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

**3.4. Pledge of Revenues.** The Revenue Bond together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the Project or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the Project, and depreciation, and the Rate Resolution shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

#### **SECTION 4. Special Charge or Surcharge for Revenue Bond.**

**4.1.** The City does hereby create the Revenue Bond Special-Surcharge District (the "Surcharge District") which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.

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

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

**4.4. Segregation.** The Finance Officer shall set up bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue, special charges and surcharges.

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

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

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

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

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

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

**6.4. Project Surplus Account.** There shall be established the Project Surplus Account. Revenues remaining in the Project Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Common Council shall authorize the Finance Officer to rectify such default so far as possible

by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

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

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

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

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

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

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

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

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

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

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

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

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



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

**SECTION 14. Repeal of Resolution.** At such time as the Revenue Bond is defeased or paid in full, this Resolution and the special charge or surcharge shall automatically be repealed without any further action of the City.

**SECTION 15. Authorization of City Officials.** The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

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

Adopted at Spearfish, South Dakota, this 21st day of February, 2023.

APPROVED:

(SEAL)

\_\_\_\_\_  
John Senden, Mayor

Attest: \_\_\_\_\_  
Michelle DeNeui, Finance Officer

Adopted: March 6, 2023  
Published: March 10, 2023  
Effective: March 30, 2023

**Resolution 2023-04** – Rath moved, Hodgs seconded and all voted to adopt Resolution 2023-04 as follows:

**RESOLUTION NO. 2023-04**

**A RESOLUTION PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO THE CITY OF SPEARFISH WASTEWATER SYSTEM FOR PAYMENT OF A BORROWER BOND AND YEARLY REVIEW OF THE SURCHARGE.**

**WHEREAS**, the City of Spearfish, South Dakota (the “City”) has determined that it is necessary to make certain modifications and improvements (the “Improvements”) to the City’s wastewater system (the “System”); and

**WHEREAS**, in order to pay for a portion of the cost of the Improvements, including engineering costs, legal and financing costs, and other related costs, the City Council has determined that it is necessary and advisable for the City to issue and sell the City’s Clean Water Surcharge Revenue Bond, Series 2023 (Clean Water SRF loan C461030-02), in an amount not to exceed \$5,964,700 (the “Bond”) in connection with a loan to be made under a Revenue Obligation Loan Agreement to be

entered into by the City with the South Dakota Conservancy District (the “Loan Agreement”) and a resolution to be adopted by the City authorizing the issuance of the Bond; and

**WHEREAS**, the City has determined that all users of the System will benefit from the Improvements; and

**WHEREAS**, the City has proposed to adopt a special charge or surcharge pursuant to SDCL 9-40-15 on all users of the System to be pledged for the repayment of the principal of and interest on the Bond.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Spearfish, South Dakota, as follows:

1. Surcharge and Rate. The City does hereby establish, in addition to the other charges, a surcharge of \$5.59 per user per month (the “Surcharge”) which will be charged to all users of the System. The Surcharge will be imposed beginning January 1, 2024. The Surcharge amount is subject to adjustment as follows:
  - a. The City Council will adjust the amount of the Surcharge if it determines that final project costs and federal or state assistance allows the City to reduce the principal amount of the Bond.
  - b. The City Council will review the Surcharge rate annually, and adjust it upwards or downwards to a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Bond over a period of 30 years, together with interest thereon at an interest rate of 2.125% per annum plus an administrative expense surcharge of 0.25% in accordance with the Loan Agreement.
2. Surcharge Found to be Equitable. It has been found that all users of the System benefit from the Improvements paid for in part from the proceeds of the Bond, and that the Surcharge is found to be equitable for the services provided by such improvements. Therefore, the Surcharge will be applicable to all users of the System, current and future, whether in or out of the City.
3. Segregation of Surcharge Receipts. The revenues collected from the Surcharge will be segregated from all other funds of the City and will be pledged to secure the Bond. The Bond will be payable solely from such segregated revenues, and not from the general revenues of the System. Until adequate provision has been made for the debt service on the Bond, moneys in the segregated account may not be used for any purpose other than for the repayment of the Bond. The City in its discretion may from time-to-time advance moneys from the general revenues of the System to make payments on the Bond, but any moneys so advanced will be repaid from Surcharge collections within one year of the date of such advance.
4. Duration of Surcharge; Automatic Repeal. The Surcharge shall remain in effect until such time as the Bond is discharged or defeased. The initial Surcharge shall be collected at the

same time as other charges of the System. Upon payment of all principal and interest on the Bond or any refunding bonds, or until the same have been defeased, the Surcharge will automatically be repealed without any further action of the Council.

5. Billing and Accounting. The Surcharge will be included in the monthly bill. Nothing contained herein requires the Surcharge to be indicated on the billing, but the Surcharge segregation must be specifically reflected in the books of the City.
6. Severability. If any one or more of the provisions of this Resolution is held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision hereof.
7. Surcharge Bond Not to Create Constitutional Indebtedness. The Surcharge provided for herein is for the purpose of paying the Bond, which will not constitute indebtedness within the meaning of the South Dakota Constitutional Chapter XIII, Section 4.

Dated this 6<sup>th</sup> day of March, 2023.

APPROVED:

(SEAL)

\_\_\_\_\_  
John Senden, Mayor

Attest: \_\_\_\_\_  
Michelle DeNeui, Finance Officer

Adopted: March 6, 2023  
Published: March 10, 2023  
Effective: March 30, 2023

**Resolution 2023-05** – Hourigan moved, Rath seconded and all voted to adopt Resolution 2023-05 as follows:

**RESOLUTION NO. 2023-05**

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

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

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

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

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

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

**NOW THEREFORE BE IT RESOLVED** by the City as follows:

**SECTION 17. Definitions.** The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

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

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

“**Project**” means City of Spearfish Exit 17 Water Tank and Well Project.

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

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

**SECTION 18. Declaration of Necessity and Findings.**

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

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

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

**2.2.2.** Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and

the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

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

## **SECTION 19. Authorization of Loan, Pledge of Revenue and Security.**

**19.1. Authorization of Loan.** The City hereby determines and declares it necessary to finance up to \$3,234,000 of the costs of the Project through the issuance of bonds payable from net revenues of the System and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

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

**19.3. Approval of Revenue Bond.** The issuance of a revenue bond in a principal amount not to exceed \$3,234,000 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

**19.4. Pledge of Revenues.** The Revenue Bond together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of

securing Additional Bonds issued as permitted by the terms thereof). The City hereby irrevocably pledges to the South Dakota Conservancy District all income and revenues of the System, including, without limitation, fees, charges to users of the System, penalties and hook-up fees, sign-up fees, proceeds of business interruption insurance, proceeds from the sale of property constituting part of the System and investment income on all such revenues, but only to the extent that the revenues exceed the amounts necessary to operate and maintain the System, provided there shall be excluded from this pledge the proceeds of any federal or state grant or loan, and the investment income therefrom, to the extent such exclusion is a condition of such grant or loan. The City covenants and agrees to charge rates for all services from the System or establish charges or rates which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

## **SECTION 20. Rates, Certification, Segregation and Review.**

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

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

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

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

**SECTION 21. Additional Bonds.** As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

**SECTION 22. Project Fund Accounts.** For the purpose of application and proper allocation of net income of the System and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the water system account of the City and shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

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

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

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

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

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

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

**SECTION 23. Approval of Paying Agent/Registrar.** The Revenue Bond shall be payable at the office of U.S. Bank National Association, St. Paul, Minnesota, hereby designated as paying agent and registrar.

**SECTION 24. Approval of Bond Counsel.** Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

**SECTION 25. Tax Matters.** The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (“the Code”) and applicable Treasury Regulations (the “Regulations”).

**SECTION 26. Covenants.** The City hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

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

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

**26.3.** The City covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest and Administrative Surcharge on the Revenue Bond, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish,



authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

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

**SECTION 27. Depositories.** The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased and handled and accounted for in the same manner as other moneys therein.

**SECTION 28. Consent to Appointment.** In the event of mismanagement of the Project, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the Project are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to Section 33 of the Act, and agrees that the receiver will have the powers set forth therein, and in Section 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

**SECTION 29. Severability.** If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

**SECTION 30. Authorization of City Officials.** The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

**SECTION 31. Effective Date.** This Resolution shall take effect on the 20<sup>th</sup> day following its publication, unless suspended by a referendum.

Adopted at Spearfish, South Dakota, this 21st day of February 2023.

**APPROVED:  
CITY OF SPEARFISH,  
SOUTH DAKOTA**

(seal)

\_\_\_\_\_  
John Senden, Mayor

Attest:

\_\_\_\_\_  
Michelle DeNeui, City Finance Officer

Adopted: March 6, 2023  
Published: March 10, 2023  
Effective: March 30, 2023

**License** – Klarenbeek moved, Hourigan seconded and all voted to release the package liquor (off-sale) license available in Spearfish for bid opening on April 5, 2023 at 10:00 a.m. with minimum bid of \$100,000.

**Award Bid** – Hodgs moved, Jacobs seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath voting aye, motion passed to award the bid for the 2023 Weed Control Applications Project to TruGreen Chemlawn, the lowest responsive and responsible bidder, for \$39,886.

**Ordinance 1377** – A public hearing was opened at 5:58 p.m. to consider Ordinance 1377 – An Ordinance Amending Regulations for the Administrative Approval of Plats. No oral or written comments were received and the hearing was closed. Clark moved, Rath seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek and Rath voting aye, motion passed to approve the second reading of Ordinance 1377 – An Ordinance Amending Regulations for the Administrative Approval of Plats.

**Resolution 2023-06** – Clark moved, Hourigan seconded and with Clark, Hodgs, Hourigan, Jacobs, and Rath voting aye, Klarenbeek voting nay, motion passed to adopt Resolution 2023-06 as follows:

#### **RESOLUTION 2023-06**

##### **A RESOLUTION ADOPTING A DISCRETIONARY FORMULA FOR REDUCED TAXATION**

**WHEREAS**, SDCL Ch. 10-6 authorizes boards of county commissioners to adopt a formula, known as the discretionary tax formula, for assessed value to be used for tax purposes for certain categories of structures; and

**WHEREAS**, SDCL Ch. 10-6 authorizes the governing board of a municipality to adopt a discretionary tax formula if the county has not adopted such a formula; and

**WHEREAS**, Lawrence County does not have a discretionary formula for reduced taxation pursuant to SDCL 10-6-137 and, therefore, SDCL 10-6-138 authorizes the Common Council of the City of Spearfish to adopt all or any part of the formula for assessed value pursuant to SDCL 10-6-137; and

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Spearfish that for a new industrial structure as that term is defined herein, including a power generation facility, or an addition to an existing industrial structure, if the new structure or addition has a full and true value of thirty thousand dollars or more shall, following construction, be valued for taxation purposes in the usual manner;

**BE IT FURTHER RESOLVED** that for a new commercial structure as that term is defined herein, or an addition to an existing commercial structure, except a commercial residential structure as described in SDCL 10-6-137(5), if the new structure or addition has a full and true value of thirty thousand dollars or more shall, following construction, be valued for taxation purposes in the usual manner;

**BE IT FURTHER RESOLVED** that the following formula for assessed value to be used for tax purposes of any new industrial or new commercial structure or addition to an existing industrial or existing commercial structure if the new structure or addition has a full and true value of thirty thousand dollars or more shall be:

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 and every year thereafter, one hundred percent (100%) of the assessed value shall be used for tax purposes on such property;

**BE IT FURTHER RESOLVED** that industrial structure is defined as any structure designed for production, manufacture, or assembly; office space associated with the following industries: natural resource development (timber, crops, minerals, oil, gas, etc.), technology, financial services, engineering and closely related design services; warehouses; mailing and shipping services; distribution centers; wholesale facilities; and telecommunication and broadcasting facilities;

**BE IT FURTHER RESOLVED** that commercial structure is defined as any retail structure over 20,000 square feet and structures dedicated to the rental, sales, leasing, or service of new and used vehicles, recreational vehicles, trailers, or equipment;

**BE IT FURTHER RESOLVED** that for the purposes of this Resolution, affordable rental rate is defined as a monthly rental rate at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority for a minimum of ten years following the date of first occupancy; and

**BE IT FURTHER RESOLVED** that for purposes of this Resolution, affordable housing structure is defined as a multi-unit structure with at least four units with an affordable rental rate and, if the structure has more than four units, a minimum of thirty percent (30%) of the units have an affordable rental rate; and

**BE IT FURTHER RESOLVED** that any new affordable housing structure, if the structure has a full and true value of thirty thousand dollars or more shall, following construction, be valued for taxation purposes in the usual manner;

**BE IT FURTHER RESOLVED** that for any new affordable housing structure, if the structure has a full and true value of thirty thousand dollars or more shall, following construction, be valued for taxation purposes in the usual manner;

**BE IT FURTHER RESOLVED** that the following formula for assessed value to be used for tax purposes of any new affordable housing structure if the new structure has a full and true value of thirty thousand dollars or more shall be:

1. For the first and second tax years following the completion of construction, twenty-five percent (25%) of the assessed value shall be used for tax purposes on such property;
2. For the third and fourth tax years following the completion of construction, fifty percent (50%) of the assessed value shall be used for tax purposes on such property;
3. For the fifth and sixth tax years following the completion of construction, seventy-five percent (75%) of the assessed value shall be used for tax purposes on such property;
4. For the seventh tax year following the completion of construction and for every tax year thereafter, one hundred percent (100%) of the assessed value shall be used for tax purposes on such property;

Dated this 6th day of March, 2023.

(Seal)

Attest:

**CITY OF SPEARFISH**

By: \_\_\_\_\_  
John Senden, Its Mayor

\_\_\_\_\_  
Michelle DeNeui, Finance Officer

Adopted: March 6, 2023  
Published: March 10, 2023  
Effective: March 30, 2023

**Agreement** – Hodgs moved, Rath seconded and all voted to approve a Sewer Service Agreement for 3225 Old Belle Rd. at allow for a second sewer hookup.

**Agreement** – Rath moved, Hourigan seconded and all voted to approve an encroachment agreement for 307 Meier Avenue to allow a deck to be partially built within the right of way.

**Seasonal** – Hodgs moved, Hourigan seconded and with Clark, Hodgs, Hourigan, Jacobs, and Rath voting aye, Klarenbeek voting nay, motion passed to authorize the hire of one (1) additional 2023 Seasonal Wildland Firefighter at 500 hours at \$15.25 per hour.

**Agreement** – Hourigan moved, Jacobs seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek and Rath voting aye, motion passed to approve the Agreement for Professional Services by KLJ Engineering LLC for construction improvements on the Black Hills Airport Clyde Ice Field runway, at a cost not to exceed \$154,619.76.

**Commitment** – Hourigan moved, Jacobs seconded and with Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath voting aye, Clark voting nay, motion passed to approve a commitment of \$10,000 to the Western Dakota Regional Water System (WDRWS).

**Dual Purpose Well** – Clark moved, Rath seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath voting aye, motion passed to approve an approximate \$300,000 delta to transition the Sky Ridge irrigation Well to a dual-purpose municipal/irrigation well.

**Move Budget** – Clark moved, Hourigan seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath voting aye, motion passed to move the “Annual Pavement Maintenance – Mountain Shadows” project from 2024 to 2023 budget.

**Interim Bill List** – Klarenbeek moved, Hourigan seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath voting aye, motion passed to approve the interim bill list dated February 22, 2023 as follows:

<b><u>VENDOR NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>AMOUNT</u></b>
SD PUBLIC ASSURANCE ALLIANCE	GEN LIAB/PROP LIAB INS 23	\$362,632.92
	TOTAL	<u>\$362,632.92</u>

**Bill List** – Clark moved, Rath seconded and with Clark, Hodgs, Hourigan, Jacobs, Klarenbeek, and Rath voting aye, motion passed to approve the bill list dated March 6, 2023 as follows:

<b><u>VENDOR NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>AMOUNT</u></b>
A & B BUSINESS INC	MONTHLY RENTALS-Q1 COPIES	\$3,102.59
A & L CONTRACTORS LLC	SNOW REMOVAL 2-23 REC CENTER	\$1,710.00
LAUREN ALBRECHT	5 ON 5 REFINING	\$231.25
ALLSTATE PETERBILT CO	TRANSMISSION WORK PETERBILT	\$1,432.22
BAKER & TAYLOR	BOOKS FOR LIBRARY	\$381.91
BB&T GOVERNMENTAL FINANCE	WWTP 2020 BOND REFINANCE	\$186,299.13
BERG USA LLC	GRAN TOUR RACERS FOR REC CENTER	\$5,340.00
BEST WESTERN BLACK HILLS L	SNOW STORM LODGING	\$103.48
BLACK HILLS ENERGY	JAN/FEB 2023	\$20,225.69

BIG SKY COMMUNICATIONS	VOICE TUBE OVER HEAD PD	\$165.00
BLACK HILLS CHEMICAL CORP	GLOVES-TP-WIPES-SOAP	\$1,367.04
BOMGAARS SUPPLY INC	TORCH-BATTERY-RATCHET-HOSE-BOLTS	\$2,616.73
BRUCE KLEINSASSER-LGIT-WSI	LIFEGUARD INSTRUCTOR TRAINING	\$365.00
CASH-WA DISTRIBUTING CO	CONCESSIONS FOR REC CNTR	\$2,134.33
CENGAGE LEARNING	BOOKS FOR LIBRARY	\$293.74
TMT INC	CLOTH PANEL FILTER-EXHAUST DUS	\$44.16
DIAS, GREGORY K	ASSIST W/ LIB CONNECT ISSUES	\$250.00
DAKOTA BUS SERVICE CORP	56 PASSNGER CHARTER -FAITH SD	\$1,250.00
DC BOOTH SOCIETY INC	QUARTERLY ALLOC 2023	\$12,500.00
DEMCO INC	SUPPLIES FOR LIBRARY	\$291.32
EDDIE, JIM	ANNUAL CONF CASPER WY	\$92.00
ELKHORN RIDGE @ FRAWLEY RA	JAN 2023 TAX INCREMENT DUE	\$6,649.75
FORTIN TRUCKING & EXCAVATI	SNOW HAULING	\$975.00
FOTH INFRASTRUCTURE & ENVI	EAST LOW WATER IMPROVEMENTS	\$54,528.85
VIEHAUSER ENTERPRISES LLC	PD 12 KEY FOB BATTERY-COPIES PW	\$26.00
GREAT WESTERN TIRE INC	2 TIRES WRL TRLRUN A/T BLK TL	\$154.84
HAWKINS INC	CHLORINE CYLINDERS-AQUA HAWK	\$3,160.15
HDR ENGINEERING INC	SAN SWR COLL SYS MST PLN	\$2,078.75
HEISLER HARDWARE	CERAMIC HEATER-PAINT-BUTANE-HOOKS	\$1,025.64
HIGH PLAIN HERITAGE SCTY	QUARTERLY ALLOCATION 2023	\$20,000.00
HUB INTERN'L MTN STATES LT	GEN LIABILITY RENEWAL	\$15,154.00
HUSKER PROPERTIES LLC	FIRE DEPARTMENT DIESEL	\$68.15
JI TOOLS	BATTERY FLEX LIGHTS X 3	\$486.75
TODD EMERY COLLINS	CAMERA USE ON WP WATER LINES	\$400.00
JOHNSON CONTROLS FIRE PROT	CHECK PHONES LINES REC CENTER	\$815.00
KNECHT HOME CENTER INC	WOOD-TAPE-GAS-PAINT-BATTERIES	\$1,175.54
KTM DESIGN SOLUTIONS, INC.	NORTH AVE ST RPR PROJECT	\$20,790.00
LINDSTAD'S ALIGNMENT/BRAKE	ALIGN FRONT ON EXPLORER	\$50.00
MAINLINE CONTRACTING INC	ELKHORN RDG LIFT STN A&B SCH A&C PE 7	\$637,309.75
NORTHERN HILLS VENTURES IN	MARCH 0365 NETWORK ADMIN	\$19,614.11
NORTH STAR CONSTRUCTION	TAXILINE HANGAR MISC FINAL 5	\$28,676.69
2ND WIND EXERCISE EQUIP	BATTERIES FOR EQUIP CNTR	\$782.21
PETTY CASH	PETTY CASH FOR FINANCE	\$155.90
PLAINS MIDWEST LLC	SNOW REMOVAL	\$4,974.50
POWELL, JACOB	5 ON 5 REFING 1/19	\$12.50
WEST RIVER TRANSIT AUTHORI	2022 VEH GRANT 20%-QUART ALLOC	\$23,177.49
QUADIENT FINANCE USA, INC	POSTAGE USED 1/1/23-2/28/23	\$1,000.00
QUIK SIGNS INC	SAWMILL REC PATH SIGNS-ALMN STRT SGNS	\$501.75
RAMKOTA HOTEL - PIERRE	LEGISLATIVE DAY LODGING	\$101.00
REED, THERESA DAWN	DWTN RSTRM CLEANING	\$420.00
ROBERT REILING	TRAVEL FOR CONFERENCE SF	\$302.40
S&S BUILDERS LLC	SKY RDG PH 2 MAINT BLD PE10	\$82,049.71

SPEARFISH ECON DEVELOPMENT	DRAW 5 ATLAS FAC CONST-QUART ALLOC	\$367,500.00
SHERWIN WILLIAMS CO	PAINT BHSU GREEN	\$3,058.85
JASON NELSON	REPLACED DOME LIGHT/FUSE	\$188.32
SPEARFISH AUTO SUPPLY	FUEL FILTERS-BOLT-LED-FUSE-PLIERS	\$5,411.49
SPEARFISH HIGH SCHOOL POST	POST PROM ALLOCATION	\$300.00
STEC'S INNOVATIVE SAFETY S	JANUARY 2023 REWARDS PROGRAM	\$56.64
STRUCTURAL DYNAMICS, LLC	SPORTS PLEX SKY RDG	\$2,981.80
TFS EQUIPMENT & SERVICE, L	BOOM TRUCK OP WWTP	\$290.00
TTG ENTERPRISES INC	RACO ALARM INSTALL	\$2,511.91
CITY OF SPEARFISH	JAN/FEB 2023 WATER BILLS	\$4,976.64
VISIT SPEARFISH INC	MNTHLY BID & SEMI ANNUAL ALLOCATION	\$100,184.00
WALMART CAPITAL ONE	HDMI CABLES X3- KEYBOARD	\$198.07
WHITE'S QUEEN CITY MOTORS	CABLE	\$158.29
WOODS, CHRISTOPHER D	K9 TRAINING 2/19/23-3/31/23	\$1,320.00
YOUNGBLOOD & ASSOCIATES, I	POLYGRAPH EXAM SERVICE	\$350.00
ZIMMERMAN, TYLER	ANNUAL CONFERENCE CASPER PARKS	\$92.00
	Total	<u><u>\$1,656,390.03</u></u>

#### February 2023 Salary Expense & Credit Card Fees

	<u>Gross</u>		<u>Gross</u>	<u>Benefits</u>	
	<u>Wages/Benefits</u>		<u>Wages</u>		
Mayor/Council	\$9,034.77	1.14%	\$8,392.68	\$642.09	1.32%
City Administrator	21,106.97	2.67%	16,975.66	4,131.31	2.67%
City Attorney	11,663.02	1.47%	9,656.00	2,007.02	1.52%
Finance	19,776.39	2.50%	16,408.43	3,367.96	2.59%
Human Resources	9,907.46	1.25%	8,123.20	1,784.26	1.28%
Gov't Bldgs	18,639.43	2.35%	14,578.57	4,060.86	2.30%
Engineering	36,914.14	4.66%	29,395.37	7,518.77	4.63%
Public Safety Admin	24,889.55	3.14%	19,872.50	5,017.05	3.13%
Police	143,292.52	18.10%	112,287.21	31,005.31	17.69%
Fire	13,422.16	1.70%	11,650.00	1,772.16	1.84%
Bldg Inspection	13,761.08	1.74%	10,691.20	3,069.88	1.68%
Streets & Snow	84,636.12	10.69%	67,955.85	16,680.27	10.71%
Cemetery	5,434.28	0.69%	4,166.40	1,267.88	0.66%
Animal Control	4,629.33	0.58%	3,272.87	1,356.46	0.52%
Recreation/Aquatic	60,064.61	7.59%	48,267.72	11,796.89	7.61%
Parks	40,955.92	5.17%	32,338.10	8,617.82	5.10%
Library	33,753.45	4.26%	27,053.21	6,700.24	4.26%
Plan & Zone	19,820.39	2.50%	15,587.21	4,233.18	2.46%
Motor Pool	23,098.87	2.92%	17,770.44	5,328.43	2.80%
Wildland Fire	7,716.86	0.97%	5,775.14	1,941.72	0.91%
Police Comm	61,616.24	7.78%	52,992.41	8,623.83	8.35%
SAFER Grant	6,384.68	0.81%	5,304.52	1,080.16	0.84%

Water	20,818.12	2.63%	16,635.15	4,182.97	2.62%
Electric Production	17,113.14	2.16%	13,569.72	3,543.42	2.14%
Sewer	19,433.26	2.45%	15,562.58	3,870.68	2.45%
WWTP	35,117.22	4.44%	28,025.05	7,092.17	4.42%
Solid Waste	28,105.36	3.55%	21,785.99	6,319.37	3.43%
Campground	706.87	0.09%	547.37	159.50	0.09%
Totals	<u>\$791,812.21</u>	<u>100.00%</u>	<u>\$634,640.55</u>	<u>\$157,171.66</u>	<u>100.00%</u>
Credit Card Fees Feb	<u>7,072.58</u>				
Grand Total	<u><u>\$798,884.79</u></u>				

**Added or Adjusted Wages:**

<b>Employee Name</b>	<b>Position</b>	<b>Wage</b>	<b>CDL Stipend</b>	<b>Effective Date</b>
Brad Hunt	wastewater treatment operator III	\$26.72	\$3.00	3/19/2023
Samuel Funk	police officer	\$29.49		3/6/2023
Angelica Tyler	assistant finance officer	\$37.75		2/22/2023
Matt Hess	police officer	\$29.49		3/5/2023
Carrie Swanson	library page	\$13.38		2/6/2023
Jonathan Beach	water/wastewater utility operator	\$20.87	\$3.00	2/27/2023
Shane Young	parcs maintenance forestry technician	\$21.93	\$3.00	2/21/2023
Marlo Kapsa	planning director	\$49.53		3/5/2022
Riley Jones	building official	\$52.04		3/20/2023
Saul Torres	police officer	\$26.72		4/3/2023

There being no further business, Clark moved, Rath seconded and all voted to adjourn at 6:22 p.m.

Dated this 6th day of March, 2023.

**CITY OF SPEARFISH**

By: \_\_\_\_\_  
John Senden, Mayor

Attest:

\_\_\_\_\_  
Michelle DeNeui, Finance Officer

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