

August 5<sup>th</sup>, 2024

The City Council of the City of Wessington Springs met in regular session at the Office of the Finance Officer at 7:00 P.M. on Monday, August 5<sup>th</sup>, 2024, with the following members being present: Vickie Harmdierks, Kari Fagerhaug, Meg Forrest, Pat Fastnacht, Eva Voorhees via phone, and with Mayor Ryan Knipfer presiding. Also, in attendance was Linda Willman, Finance Officer and Gary Blue City Attorney via phone. Councilman Layton Schimke joined meeting later.

Meeting was opened with pledge of allegiance.

A motion was made by Fastnacht, seconded by Forrest to approve the agenda as presented. Ayes: 5 Nays: 0 Motion carried.

Conflicts of Interest: none stated.

A motion was made by Harmdierks, seconded by Fagerhaug to approve the July 2024 City Council meeting minutes. Ayes: 5 Nays: 0 Motion carried.

A motion was made by Fagerhaug, seconded by Fastnacht to approve the July 2024 treasurer's report as presented. Ayes: 5 Nays: 0 Motion carried.

Pay request # 5 for the airport taxilane project was presented to the Council in the amount of \$333,104.70 payable to VanDerPool Dragline. A motion was made by Fagerhaug, seconded by Fastnacht to approve the pay request as presented and authorize the mayor to sign the pay request. Ayes: 5 Nay: 0

Pay request # 4 for the College Avenue project was presented to the Council in the amount of \$33,020.64 payable to Menning Excavation, Inc. A motion was made by Fastnacht, seconded by Harmdierks to approve the pay request as presented and authorize the mayor to sign the pay request. Ayes: 5 Nay: 0

Pay request # 1 for the College Avenue project/Ball Park Water was presented to the Council in the amount of \$82,539.80 payable to TLC Olsen Construction LLC. A motion was made by Harmdierks, seconded by Forrest to approve the pay request as presented and authorize the mayor to sign the pay request. Ayes: 5 Nay: 0

A motion was made by Forrest, seconded by Fastnacht, and with all Council members voting aye to approve the following bills for payment.

#### BILLS

<u>Vendor Name</u>	<u>Description</u>	<u>Amount</u>
Agtegra	gas	1,024.80
AmKota	supplies	874.61
Baker's Repair	repairs	627.90
Blue Haeder & Banks Law Office	professional service	1,000.00

CCMC Lawn	landscape at pool	4,533.90
Central Electric	utilities	84.38
CHS/Farmers Alliance	repairs to pool heater	627.38
Code Enforcement Specialist	professional service	621.91
Connecting Point	off site backup	31.00
Dakota Fluid Power	repairs	364.61
Dakota Sunrise Backhoeing LLC	install hydrant	1,876.66
Elan Financial Services	software/chemicals	595.30
Ellwein Brothers Inc.	beer-op agree	9,257.04
EX Business Card	supplies/postage	409.25
Fastnacht, Coy	baseball field supplies	2,510.52
Flow-Rite Seamless Gutters	gutters	450.00
Havlik, Katherine	2024 lifeguard reimbursement	421.80
Hawkins	chemicals	2,469.26
Jensen Construction	repairs-bathhouse	7,478.24
Jensen True Value	supplies	177.85
Johnson Brothers	liquor-op agreement	1,763.87
Knipfer, Ryan	mileage-training reimbursement	668.14
Krohmer Plumbing	professional service	137.76
Krueger, Brock	2024 lifeguard reimbursement	703.04
L & M Sanitation	Professional service	8,078.93
Lew's Fireworks	fireworks	2,500.00
McLeod's Office Supply	op agree forms	149.90
Mid-Dakota	utilities	49.65
Office Peeps	sonic wall software	1,159.20
Orth, Avery	2024 lifeguard reimbursement	849.11
Pests B Dead LLC	professional service	250.00
Porter	beer-op agreement	2,730.69
Republic	liquor-op agreement	3,145.80
SD Library Association	dues	215.00
Southern Wines & Spirits of SD	liquor-op agreements	619.44
Springs Food Market	supplies	160.81
Total Oil	supplies	80.00
True Dakotan	minutes	1,281.70
Van Diest	supplies	3,120.00
Venture	phone bills	413.31
Vorhees, Eva	mileage-elected officials workshop	142.04
WILLMAN, LINDA	mileage-Heartland summer Conf.	100.50
	<b>Fund Total:</b>	<b>63,755.30</b>
<b>Fund: 212</b>	<b>ADDITIONAL SALES TAX - 2ND</b>	
USDA Rural Development	loan payment	3,051.00
	<b>Fund Total:</b>	<b>3,051.00</b>
<b>Fund: 501</b>	<b>CAPITAL PROJECT FUNDS</b>	
Brosz Engineering	enginerring-2nd street	6,932.50
Helms & Associates	engineering	86,121.31
Menning Excavating, Inc.	Pay request #3	33,020.64
SPN	engineering-College Ave	14,045.91
TLC Olson Construction LLC	Pay Request #1 ballpark water	82,539.80
VanDerPool Dragline	Pay Request #5 airport	330,104.70
	<b>Fund Total:</b>	<b>552,764.86</b>
<b>Fund: 602</b>	<b>WATER FUND</b>	
Agtegra	gas	237.06
AmKota	supplies	131.97
Dakota Pump & Control	cable	70.21
Elan Financial Services	software	49.22
EX Business Card	supplies/postage	11.61

Hawkins	chemicals	5,948.63
Krohmer Plumbing	professional service	91.84
Mid-American Research	chemicals	2,008.16
SD Dept of Health	lab test	97.00
SD Assoc. of Rural Water	dues	525.00
SD One Call	locates	9.71
Sioux Valley Environmental	professional service	400.00
Stretchs Well Service Inc.	replace well pump	9,787.16
Venture	phone bills	49.67
	<b>Fund Total:</b>	<b>19,417.24</b>
<b>Fund: 603</b>	<b>ELECTRIC FUND</b>	
Agtegra	gas	296.53
AmKota	supplies	24.47
Border States Electric Supply	supplies	15,230.84
DEWILD GRANT RECKERT & ASSOC.	engineering	318.00
Elan Financial Services	software	49.22
EX Business Card	supplies/postage	63.13
SD One Call	locates	9.71
Stuart C Irby	supplies	148.50
Venture	phone bills	814.38
	<b>Fund Total:</b>	<b>16,954.78</b>
<b>Fund: 604</b>	<b>SEWER FUND</b>	
Agtegra	gas	237.06
Central Electric	utilities	63.45
Core & Main LP	supplies	3,902.14
Dakota Pump and Control	install gate valves	6,769.32
EX Business Card	supplies/postage	68.39
J & M Specialties	supplies	53.80
Mid-American	supplies	981.93
SD One Call	locates	9.70
Venture	phone bills	49.67
	<b>Fund Total:</b>	<b>12,135.46</b>
<b>Fund: 701</b>	<b>UTILITY DEPOSIT FUND</b>	
	deposit refund	187.93
CITY OF WESSINGTON SPRINGS	customer utility bills	207.79
	deposit refund	104.28
	<b>Fund Total:</b>	<b>500.00</b>
	<b>Checking Account Total:</b>	<b>668,578.64</b>
	<b>PREPAIDS</b>	
<b>Fund: 101</b>	<b>GENERAL FUND</b>	
Central Electric	utilities	81.00
Ellwein Brothers Inc.	beer-op agreement	12,344.20
Johnson Brothers	liquor-op agreement	1,865.07
Mid-Dakota	utilities	44.00
Porter	beer-op agreement	4,125.73
Republic	liquor-op agreement	1,423.88
Reserve Account	postage	250.00
SD Dept of Revenue	sales tax	802.73
Southern Wines & Spirits of SD	liquor-op agreement	584.13
Springs Owls	Comm. Foundation Grant-pass thru	1,288.00
	<b>Fund Total:</b>	<b>22,808.74</b>
<b>Fund: 602</b>	<b>WATER FUND</b>	
Reserve Account	postage	250.00
	<b>Fund Total:</b>	<b>250.00</b>
<b>Fund: 603</b>	<b>ELECTRIC FUND</b>	
Heartland	power	31,434.27
Reserve Account	postage	250.00
SD Dept of Revenue	sales tax	3,741.76

WAPA		power	18,433.42
		<b>Fund Total:</b>	<b>53,859.45</b>
<b>Fund:</b>	<b>604</b>	<b>SEWER FUND</b>	
Central Electric		utilities	63.45
Reserve Account		postage	250.00
		<b>Fund Total:</b>	<b>313.45</b>
		<b>Checking Account Total:</b>	<b>77,231.64</b>

#### PAYROLL

Payroll	Finance Office	2,896.04
Payroll	Street	382.62
Payroll	Landfill	820.89
Payroll	Pool	6,833.41
Payroll	Summer Street/Park	5,950.20
Payroll	Library	2,101.67
Payroll	Water	2,484.69
Payroll	Electric	7,317.04
Payroll	Sewer	2,484.69
SD Retirement	contributions	5,832.96
SD Office of Child Support	contributions	631.00
Wellmark	insurance	6,009.00
AFLAC	insurance	478.22
Colonial	insurance	315.16
Division of OASI	social security/Medicare	6,400.24
Federal Tax Payment	withholding	2,358.26
Flex Account	contributions	110.00
	<b>Total:</b>	<b>\$53,406.09</b>

Mayor Ryan Knipfer announced this was the time and place for public comment.

Department head Phil LaBore and Public Works employee Rob Wenzel met with the Council.

A discussion was held on the lead pipe survey for water pipes inside residences and businesses. All places that have water pipes will need to fill out a survey and submit to survey.SDWATERPIPES.com. which is due by October. Survey can be found on the cityofwessingtonsprings.com website for easy online submittal.

Attorney Gary Blue gave an update on the code enforcement report.

A discussion was held on the complaints that have been received on golf carts on city streets. The ordinance will be republished in the paper showing the licensing requirements and rules for drivers and occupants.

Councilman Layton Schimke joined the meeting.

A discussion was held on the 2<sup>nd</sup> Street Project that was set to start on May 15<sup>th</sup>, 2024. The engineers did contact the contractor and will be getting a schedule for dates on projects. The Community Access Grant for \$600,000 that was due to expire 10-31-2024 is being discussed with the State DOT to get an extension to 12-31-25.

A discussion was held on a camera system for the City buildings. A quote was received from On-Sight for \$12,443.24 for cameras, monitoring equipment and installation for the water plant, pool and City shop. A motion was made by Voorhees, seconded by Fastnacht to approve the camera system from On-sight with the addition of cameras for the tin shed. Ayes: 6 Nays: 0 Motion carried.

A discussion was held on the water project to get hooked up to Mid Dakota water and the financing for the projects. Following the discussion, a motion was made by Harmdierks seconded by Forrest to approve the following resolution for the SRF financing for the project.

**RESOLUTION NO. 8-2024 #1**

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

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

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

**WHEREAS**, the City of Wessington Springs (the “City”) currently operates a water distribution system to supply municipal, industrial and domestic water to its inhabitants and has determined that improvements to the drinking water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its drinking water system; and,

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

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

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

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

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

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

**“Project”** means the City of Wessington Springs Water Distribution System Improvements Project.

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

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

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

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

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

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

**2.2.2.** Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

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

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

**3.1. Authorization of Loan.** The City hereby determines and declares it necessary to finance up to \$1,660,000 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

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

**3.3. Approval of Revenue Bond.** The issuance of a revenue bond in a principal amount not to exceed \$1,660,000 as determined according to the Loan

Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

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

**SECTION 4. Special Charge or Surcharge for Revenue Bond.** The City does hereby create the Revenue Bond Special-Surcharge District (the "Surcharge District") which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.



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

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

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

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

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

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

**6.1. Project Revenue Account.** There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the resolutions and ordinances of the City of Wessington Springs, South Dakota (collectively the

“Rate Resolution”). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

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

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

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

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

- (a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;
- (b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:

(c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or

(d) To be used for any other authorized municipal purpose designated by the Common Council.

(e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

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

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

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

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

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

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

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

compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

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

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

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

**SECTION 13. Severability.** If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall

not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

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

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

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

Adopted at Wessington Springs, South Dakota, this 5th day of August 2024.

**APPROVED:**

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Ryan Knipfer, Mayor

(SEAL)

Attest: \_\_\_\_\_  
Linda Willman, City Finance Officer

Councilman voting aye for resolution: Harmdierks, Forrest, Fagerhaug, Fastnacht, Schimke, Voorhees

Councilman voting nay for resolution: none Motion passed.

Adopted: August 5<sup>th</sup>, 2024  
Published: August 14<sup>th</sup>, 2024  
Effective: September 3<sup>rd</sup>, 2024

A discussion was held on the surcharge for the project to hookup to Mid Dakota water. Following the discussion, a motion was made by Fastnacht, seconded by Fagerhaug to approve the following resolution.

## RESOLUTION NO 8-2024-#2

### RESOLUTION AMENDING THE CITY'S RATE STRUCTURE, PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO THE WATER SYSTEM, FOR PAYMENT OF A REVENUE BORROWER BOND AND YEARLY REVIEW OF RATE

#### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESSINGTON SPRINGS AS FOLLOWS:

1. **Surcharge for Borrower Bond.** There shall be charged a monthly surcharge for the services provided by the improvement financed by the DW-04 Conservancy District Loan. The surcharge for each loan shall be segregated from other revenues of the City and shall be used for the payment of the Borrower Bond DW-04 (the "Borrower Bond"). Provided that such 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.

2. **Rates and collection.** The City does hereby establish the special charge or surcharge payable by each customer of its system who receives or benefits from the services of the project financed with the Borrower Bond. Such charge or surcharge shall be set at 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 Borrower Bond and the administrative expense surcharge and all other payments as may be required under the loan agreement and Borrower Bond.

3. **Borrower Bond Surcharge.** The following drinking water debt service surcharge shall be applicable to all customers served:

Borrower Bond DW-04 Surcharge: \$17.35 per user per month commencing January 1<sup>st</sup>, 2026.

This surcharge shall remain in effect until such time as the revenue bond is paid in full. The initial surcharge shall be collected at the same time as other charges of the system. The surcharge is found to be equitable for the services provided by the improvements.

4. **Segregation.** The debt service surcharge shall be segregated from other income of the system in a separate book-keeping account and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the Borrower Bond.

5. **Yearly review.** The amount of the surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by City and administratively adjusted, upwards or downwards, to such amounts as may be necessary to pay principal, interest, administrative surcharge and other charges as may become due and owing under the loan agreement or Borrower Bond.

6. **Billing and Accounting.** The surcharges shall be included in the monthly user bill. Nothing contained herein requires the surcharge be indicated on the billing, however, the surcharge segregation shall be indicated on the books of the City.

7. **Automatic Repeal.** The surcharge for the Borrower Bond shall be automatically repealed when the Borrower Bond is paid in full.

8. **Partial Invalidity.** If any one or more of the provisions of the 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.

(SEAL)

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Mayor

**ATTEST:**

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Finance Officer

Councilman voting aye for resolution: Harmdierks, Forrest, Fagerhaug, Fastnacht, Schimke, Voorhees

Councilman voting nay for resolution: none Motion passed.

Adopted: August 5<sup>th</sup>, 2024  
Published: August 14<sup>th</sup>, 2024  
Effective: September 3<sup>rd</sup>, 2024

A discussion was held on the 2023 annual audit. An engagement letter from Schoenfish and Company was presented to the board for approval. A motion was made by Harmdierks, seconded by Fagerhaug to approve the 2023 engagement letter from Schoenfish and Company and authorize the Mayor, President of the Council and Finance Officer to sign the document to be sent to SD Department of Legislative Audit for final approval. Ayes: 6  
Nays: 0 Motion carried.

A discussion was held on initiated measure IM28. It was decided to table to further review the matter regarding the sales tax effect on Cities.

An airport Grant Financial Agreement for Project NO. 3-46-0080-2024 to reconstruct Apron - Phase 1 Design from the State of South Dakota

Department of Transportation Division of Finance & Management Office of Air, Rail, and Transit was presented to the Council for approval. Following the discussion, a motion was made by Fagerhaug to approve the airport Financial Agreement and authorize the Mayor and Finance Officer to sign the agreement to be submitted back to the State of South Dakota department of Transportation Division of Finance & Management office of Air, Rail, and Transit for final approval. Ayes: 6 Nays: 0 Motion carried.

A discussion was held on the 2025 budget and ROCS request for support. It was decided to keep the funding the same as in 2024 budget and changes were noted from last meeting in the budget printout. The 2025 budget will have the 1<sup>st</sup> reading of the 2025 budget ordinance at the next regular meeting on Wednesday, September 4<sup>th</sup>, 2024.

A discussion was held on repairs to the fieldhouse.

A motion was made by Forrest, seconded by Harmdierks to enter into executive session pursuant to SDCL 1-25-2 (1) Personnel at 9:05 PM. Ayes: 6 Nays: 0 Motion carried.

Council reconvened into regular session at 9:34 PM.

A motion was made by Forrest, seconded by Fagerhaug to approve all expenses for the SDML Policy Committee meetings on August 14<sup>th</sup> and 15<sup>th</sup>. Ayes: 6 Nays: 0 Motion carried.

A motion was made by Fastnacht, seconded by Forrest to adjourn the meeting. Ayes: 6 Nays: 0 Motion carried.

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Ryan Knipfer, Mayor

ATTEST: \_\_\_\_\_  
Linda Willman, Finance Officer



