REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
MITCHELL, SOUTH DAKOTA

May 5, 2025
6:00 P.M.

PRESENT: Marty Barington, Mike Bathke, John Doescher, Tim Goldammer
Kevin McCardle, Dan Sabers, Jeffrey Smith, Susan Tjarks

ABSENT:

PRESIDING: Mayor Jordan Hanson

AGENDA:

Moved by McCardle, seconded by Goldammer, to approve the following items on the consent agenda:

a. City Council Minutes
 1. City Council April 21, 2025
b. Committee Reports
 1. Planning Commission April 14, 2025
 2. Planning Commission April 28, 2025 (unsigned)
c. Automatic Supplement
 1. Parks-Sports Complex in the amount of $1,668.50 from a donation of funds
d. Raffle Permits
 1. Mitchell Heart & Sole with the drawing to be held on June 13, 2025
 2. Moose Lodge #871 with the drawing to be held on July 19, 2025
 3. Mitchell Ducks Unlimited with the drawing to be held on September 25, 2025
e. Purchase of Curbtender off of Sourcewell contract-Project #2025-31
f. Purchase of Payloader for Landfill off of Sourcewell Contract-Project #2025-33
g. Special Event Permit Application for MAC Triathlon on Saturday, June 7, 2025
h. Volunteer Board Appointments
 1. Jeremy Gunkel to the Planning Commission Board to fill an unexpired term from May 2025-June 2027
 2. Megan Luther to the Library Board for a term of July 2025-June 2028
i. Change Order #1 for Highway #37 Utilities Project #2021-45 increasing the contract amount by $10,632.60 to Michels Road & Stone Inc adjust contract amount to $3,660,676.61
j. Set date 1:30 p.m., May 13, 2025 for bid opening for Asphalt Paving & Overlay Project #2025-15
k. Pay Estimates May 5, 2025
Pay Estimate #13 in the amount of $3,544.24 for Firesteel Creek NAWCA Grant #2021-14 contracted to Steve Donovan

Pay Estimate #38 in the amount of $28,127.00 for Lake Mitchell-Phase II #2021-20 contracted to Barr Engineering
Pay Estimate #10 in the amount of $51,992.81 for Recycling Building #2021-30 contracted to WS Construction Management
Pay Estimate #6 in the amount of $208,651.50 for North Highway #37 Utility Improvements #2021-45 contracted to Michels Road & Stone
Pay Estimate #43 in the amount of $18,645.39 for North Highway #37 Utility Improvements #2021-45 contracted to SPN & Associates
Pay Estimate #44 in the amount of $262.50 for North Highway #37 Utility Improvements #2021-45 contracted to SPN & Associates
Pay Estimate #4 in the amount of $15,599.48 for Wastewater Treatment Plant-Phase II Improvements #2022-01 contracted to First Rate Excavate
Pay Estimate #4 in the amount of $611,582.13 for 23rd & Ohlman Lift Station #2022-03 contracted to Halme Inc
Pay Estimate #20 in the amount of $9,684.62 for 23rd & Ohlman Lift Station #2022-03 contracted to SPN & Associates
Pay Estimate #22 in the amount of $862.00 for 1st/7th & Main Traffic Signals #2022-08 contracted to HR Green
Pay Estimate #9 in the amount of $67,610.17 for 3rd & Main Streetscape #2022-26 contracted to Schoenfelder Construction
Pay Estimate #7 in the amount of $78,028.42 for Jetty & Marina Improvements #2023-03 contracted to Soukup Construction
Pay Estimate #23 in the amount of $28,730.00 for Jetty & Marina Improvements #2023-03 contracted to Brosz Engineering
Pay Estimate #8 in the amount of $167,970.10 for North Harmon Sanitary Sewer Outfall #2023-06 contracted to Halme Inc.
Pay Estimate #22 in the amount of $24,756.18 for North Harmon Sanitary Sewer Outfall #2023-06 contracted to SPN & Associates
Pay Estimate #1 in the amount of $126,005.72 for 2nd/4th & Main Streetscape #2023-10 contracted to Schoenfelder Construction
Pay Estimate #1 in the amount of $74,980.95 for Hitchcock Pickle Ball Courts #2023-14 contracted to Rexwinkel Concrete
Pay Estimate #12 in the amount of $8,920.73 for Hitchcock Pickle Ball Courts #2023-14 contracted to SPN & Associates
Pay Estimate #4 in the amount of $90,222.57 for Ohlman/South Harmon Lift Station #2023-16 contracted to Halme Inc
Pay Estimate #19 in the amount of $6,392.88 for Ohlman/South Harmon Lift Station #2023-16 contracted to SPN & Associates
Pay Estimate #10 in the amount of $1,845.00 for West End Bridge #2023-23 contracted to Brosz Enginering
Pay Estimate #15 in the amount of $23,150.00 for East 5th-Burr to Foster #2024-02 contracted to Brosz Engineering
Pay Estimate #3 in the amount of $11,846.78 for North Ohlman-23rd to Kemper #2025-01 contracted to SPN & Associates

Pay Estimate #3 in the amount of $15,614.63 for 1st Avenue-Burr to Foster #2025-06 contracted to SPN & Associates
Pay Estimate #2 in the amount of $1,970.00 for Cadwell Park Infield Improvements #2025-23 contracted to SPN & Associates
Pay Estimate #5 in the amount of $3,075.43 for Airport Runway18/36 Reconstruction contracted to Helms & Associates

l. Approve Bills, Payroll, Salary Adjustments and New Employee Hires and Authorize Payment of Recurring and other expenses in advance as approved by the Finance Officer

PAYROLL APRIL 13, 2025 – APRIL 26, 2025: City Council $3,735.28, Mayor $1,614.57, City Administrator $6,691.52, Administrative Boards $2,442.65, Attorney $5,601.88, Finance $15,196.65, Human Resources $4,601.45, Municipal Building $5,626.35, Information Technology $3,453.08, Police $95,267.18, Traffic $4,891.84, Fire $50,111.13, Street $33,056.96, Public Works $26,505.05, Cemetery $5,997.09, Library $17,259.86, Recreation & Aquatics $6,778.55, Recreation Center $17,959.25 Sports Complexes $10,141.94, Parks $15,994.87, Supervision $4,418.10, E911 $24,640.78, Palace Transit $32,517.01, JVCC $2,101.64, Nutrition $4,823.00, Airport $2,669.37, Water Distribution $16,115.76, Sewer $15,785.30, Recycling Program $8,199.22, Waste Collection $7,135.66, Landfill $11,122.75, Corn Palace $18,080.49, Golf Course $5,353.12, Emergency Medical Services $49,611.28

NEW HIRES:

CEMETERY: Abraham Gunnare-$14.20, Terry Heisinger-$15.20, Dean Strand-$15.20, David Thuringer-$15.70

E-911: Kathleen Brink-$23.151, Mary Leary-$23.615

EMS: Bryce Fuchs-$25.555

GOLF: Dennis Bruske-$12.70, Dennis Geidel-$12.70, Gavin Pischke-$12.70

RECREATION & AQUATICS: Mya Cody-$13.70

RECREATION CENTER: Audrina Adams-$13.70, Kooper Moody-$13.70

PARKS: Kevin Hughes-$14.20

SPORTS COMPLEXES: Dale Moke-$13.70

SALARY ADJUSTMENTS:

CORN PALACE: Craig Stucky-$72,207.00

FINANCE: Janice Peterson-$29.949

FIRE: Abigail Squier-$22.592

POLICE: Niko Arnold-$32.079, Kyle McLaughlin-$38.705, Tyler Urban-$32.721

RECYCLING: David Schulte-$31.159

STREET: Nathan Hegg-$36.849, Jason Tuttle-$33.391

TERMINATIONS:

FIRE: Joe Dolezal

WARRANTS: AFSCME Council 65, Union Dues-$546.63; Amazon Capital Services, Supplies-$1,142.89; AT&T Mobility, Utilities-$749.92; AT&T Mobility, Utilities-$1,108.43; Avera Occupational Medicine, Testing-$649.00; Avera Patient Financial Service, Screening-$281.00; B-Y Water District, Utilities-$15,359.08; Bailey Metal Fabricators, Supplies-$15.00; Baker & Taylor, Book-$4.85; Barr Engineering, 2021-20 P.E. #PH2-38-$28,127.00; Bender Sewer & Drain, Repairs-$720.00; Big Daddy D's, Contract Services-$2,318.40; Brosz Engineering, 2023-23 P.E. #10-$53,725.00; Butler Machinery, Supplies-$1,516.20; C&B Operations, Repair-$109.25; Carquest Auto Parts, Supplies-$1,451.71; CHR Solutions, Billing Service-$3,947.50; CHS Farmers Alliance, Repair-$4,625.24; Colours 59, Supplies-$10.85; Column Software, Annual Report-$619.65; Core & Main, Supplies-$1,527.06; Core-Mark US, Supplies-$1,469.75; Corn Palace, Rent-$8,921.65; County Fair, Supplies-$58.28; Craig Stucky, Travel-$583.90; Dakota Fluid Power, Supplies-$2,575.10; Dakota Oyate Challenge, Corn Palace Games-$2,156.35; Dakota Pump, Supplies-$924.75; Dakota Supply Group, Supplies-$886.90; Daniel Fechner, Reimbursement-$80.00; Davison County Register of Deeds-Professional Service-$39.00; Dean Knippling, Travel-$28.00; Demco, Supplies-$86.08; Department of Social Services, Child Support-$359.54; Elliott Equipment, Supplies-$551.29; ELO Prof, Annual Audit-$28,749.23; Environmental Equipment & Service, Supplies-$403.42; Eric Hieb, Contract Services-$10,773.83; Ethan Coop Lumber, Deposit-$2,000.00; Fastenal, Supplies-$85.23; Fedex, Mailing-$19.52; Ferguson Waterworks #2516, Supplies-$5,881.75; First National Bank Omaha, Cash Back Redemption-$17,128.34; First Rate Excavate, 2022-1 P.E. #4-$15,599.48; Fitness by Design, Supplies-$1,335.00; Formatop, Supplies-$1,255.53; Fox Paint & Blinds. Supplies-$73.58; GF Advertising Services, Supplies-$51.40; Grainger, Supplies-$182.00; Great Western Tire, Supplies-$1,884.75; H&H Electric & Motor Repair, Repair-$149.74; Hach, Supplies-$2,310.40; Halme, 2022-3 P.E. #4-$869,774.80; Hawkins, Supplies-$80.00; Helms and Associates, Maintenance-$3,660.43; Henry Schein, Supplies-$1,791.52; HR Green, 2022-8 P.E. #22-$862.00; I-State Truck Center, Supplies-$139.66; Ingram Library Services, Books-$2,166.10; Interstate Glass & Door, Maintenance-$1,790.20; Interstate Office Products, Supplies-$114.50; Iverson, Rental-$101.96; Jacki Larson, Supplies-$32.43; JCL Solutions, Supplies-$348.80; Johnson Bros of South Dakota, Supplies-$645.60; Jones, Supplies-$1,154.94; Kimball Midwest, Supplies-$607.96; Kurt Lefort, Refund Building Permit-$193.00; Laerdal Medical, Supplies-$119,767.00; Larry's I-90 Service, Supplies-$235.88; Lawson Products, Supplies-$2,463.88; Lewis Family Drug, Supplies-$29.97; Make it Mine Designs, Supplies-$97.00; Menard's, Supplies-$1,293.97; Michels Road & Stone, 2021-45 P.E. #6-$208,651.50; Microsoft, Subscription-

$910.00; Midstates Equipment & Supplies, Supplies-$1,527.00; Midway Service dba Vollan Oil, Supplies-$17,844.88; Midwest Oil, Supplies-$439.35; Mike Carpentier, Training-$650.00; Millennium Recycling, Single Stream Fee-$801.50; Miner County Auditor, Testing-$81.64; Mitchell Animal Rescue, Management Fee-$350.00; Mitchell Iron & Supply. Supplies-$198.29; Mitchell Prehistoric Indian Village, 2025 2nd Quarter Allocation-$4,750.00; Mitchell School District, Utilities-$1,877.82; Mitchell United Way, Deductions-$171.00; Mueller Lumber, Supplies-$177.03; Muth Electric, Maintenance-$1,809.78; Napa Central, Supplies-$91.10; Nasco Healthcare, Supplies-$1,588.35; ND Country Fest, Ticket Sales-$8,015.00; North Central Seed, Supplies-$665.25; Northwest Pipe Fittings, Supplies-$210.43; Northwestern Energy, Utilities-$35,254.29; Pepsi Cola, Supplies-$334.48; Porter Distributing, Supplies-$112.75; Premier Pest Control, Maintenance-$520.00; Pro Contracting, Training-$5,608.17; Qualified Presort Service, Postage-$577.03; Reel Sharp, Supplies-$4,995.00; Rexwinkel Concrete, 2023-14 P.E. #1-$74,980.95; Rinker Materials, Supplies-$1,774.86; Runnings Supply, Supplies-$2,040.39; S&M Printing, Supplies-$72.00; Sanitation Products, Supplies-$3,607.32; Schoenfelder Construction, 2022-26 P.E. #9-$193,615.89; Scholastic Library Publish, Book-$14.99; South Dakota Public Assurance Alliance, 2025 Insurance Coverage-$558,797.67; South Dakota-Supplemental Retirement, Supplemental Retirement-$3,350.00; South Dakota-Supplemental Roth 457, Roth 457 Contributions-$2,372.50; Siteone Landscape Supply, Supplies-$1,563.26; Soukup Construction, 2023-3 P.E. #7-$78,028.42; SPN & Associates, 2021-45 P.E. #43-$98,093.71; Standard Insurance, Life Insurance-$433.48; Staples, Supplies-$438.54; Steve Donovan, 2021-14 P.E. #13-$3,544.24; Streicher's Minneapolis, Supplies-$296.95; Sturdevants Auto Value, Supplies-$3,739.19; Subway, Meals-$62.93; Sun Gold Sports, Supplies-$94.00; Teamsters Local No. 120, Union Dues-$1,631.00; The Fire Group, Inspection-$200.00; The Lodge at Deadwood, Travel-$420.00; Thomas Holleman, Training-$202.84; Thune True Value & Appliance, Supplies-$823.47; Titan Machinery Mitchell, Supplies-$141.91; TMA Stores, Repair-$24.68; Traditions Prepared Meals, Contract Services-$4,413.36; Traffic Control, Supplies-$530.00; Transource, Supplies-$761.17; Transwest Sioux Falls, Supplies-$581.26; Tri M Tunes, Maintenance-$640.00; United Parcel Service Store #4227, Shipping Charge-$73.66; Vern Eide Chevrolet, Towing-$245.00; Vestis, Mat Cleaning-$345.40; Wanda Rambin, Refund-$1,000.00; WS Construction Management, 2021-30 P.E. #10-$51,992.81; Xtreme Fire Protection, Annual Inspection-$200.00; Ellwein Brothers, Supplies-$444.35

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

CITIZENS INPUT:

Karen Pooley of the Mitchell Food Pantry stated 242 Easter ham dinners were given away during the latest food drive.

Christian New introduced himself as the new executive director of the Prehistoric Indian Village.

Johanna Allen of the Mitchell Chamber and Convention and Visitors Bureau stated that this week is National Tourism Week.

Elizabeth Luczak of Mitchell Main Street & Beyond stated there were a record number of participants for Ladies Day Out, First Fridays on May 2nd was a success, and the Dessert Rumble continues through May.

Mitchell resident, Tom Fergen, has many issues and concerns if and when the lake is drained.

MAYOR & CITY COUNCIL DISCUSSION ITEMS:

Council Member Tjarks asked Elizabeth Luczak of Mitchell Main Street & Beyond about the sponsorships for the Hope statue.

Council Member Bathke stated he was near Armour and seen water pipe being placed in the ground for the Randall Water pipeline.

BOARD OF ADJUSTMENT:

Moved by Goldammer, seconded by Bathke, for the City Council to recess and sit as the Board of Adjustment. Motion carried.

Moved by Goldammer, seconded by McCardle, to set date for May 19, 2025 on the application of the following:

Shayna Loecker for a conditional use permit to operate a family residential daycare located at 710 North Kittridge Street, legally described as Lot A in Block 2 of Robert Wilkinson's Addition, City of Mitchell, Davison County, South Dakota;

First Presbyterian Church for a conditional use permit to install and operate an electric message center in a residential district located at 500 East 5th Avenue, legally described as Lots 7-11, Block 8, C.S. Burr's Addition, City of Mitchell, Davison County, South Dakota;

Todd and Nancy Boyd for a front-yard variance of 24' vs 35' located at 155 South Harmon Drive, legally described as Lots 78 and 79, and the east 26' of Lot 80 of Indian Head Subdivision, Lake Mitchell Development Plan, SW ¼ of Section 4, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota;

Van Buskirk Homes LLC on behalf of Koch Premier Properties LLC for a conditional use permit for multi-family dwelling units between 5-12 units located at 1517 Lakeview Lane, legally described as Lots 9 and 10 of Lake Park Addition to the City of Mitchell in the SW ¼ of Section 10, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota; and

Van Buskirk Homes LLC on behalf of Koch Premier Properties LLC for a conditional use permit for multi-family dwelling units between 5-12 units located in the 100 block of Lakeview Lane, legally described as Lot 13 of Lake Park Addition to the City of Mitchell in the SW ¼ of Section 10, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota.

Motion carried.

Moved by Tjarks, seconded by Barington, for the Board of Adjustment to adjourn and the City Council to reconvene in regular session. Motion carried.

PRESENTATION:

Mitchell resident, Roger Musick, presented information on visitor spending in the city of Mitchell. The information Musick presented distinguished spending between tourists and regional visitors and what the actual differences were between tourism months and non-tourism months.

CONSIDER APPROVAL:

Moved by Tjarks, seconded by McCardle, to approve the application of Blarneys LLC dba Blarneys Sports Bar & Grille for a Special Event Malt Beverage & SD Farm Wine License located at Cadwell Park for June 14, 2025 for the 1st Annual Blarneys Amateur Baseball Classic. Motion carried.

Moved by Goldammer, seconded by Bathke, to approve the partial closure of the alley joining 6th and 7th avenues between Main and Rowley streets using option 1-jersey barriers or concrete retaining wall block at an estimated cost of $4,000.00. Motion carried.

Moved by Tjarks, seconded by Goldammer, to approve Agreement #A2025-33, Water Modeling Continuing Services with AE2S in an amount not to exceed $20,000.00. Motion carried.

Moved by Sabers, seconded by Tjarks, to approve Agreement #A2025-34, Hitchcock Tennis Courts with SPN & Associates, Project #2025-34, in an amount not to exceed $52,700.00. Motion carried.

RESOLUTION:

Moved by McCardle, seconded by Bathke, to approve Resolution #R2025-31, Amending Water and Sewer Rates for 2025 by Implementing a Surcharge for CW-13, CW-15, and DW-08, as follows:

Resolution #R2025-31

A RESOLUTION AMENDING CITY OF MITCHELL WATER & SEWER RATES FOR 2025 BY IMPLEMENTING A SURCHARGE FOR CW-13, CW-15, AND DW-08.

WHEREAS, the City of Mitchell has been involved in a comprehensive infrastructure planning process,

WHEREAS, many of these projects will include state revolving loan financing that the city will be obligated to repay through rates,

WHEREAS, these improvements are necessary to meet expected demands of current customers in the next 5-10 years, as well as any future demands from growth and development within the City of Mitchell;

WHEREAS, the Mitchell City Council asked that rates be set with quarterly increases until they reach the necessary level in 2027 to fund the projected increases required for planned improvements in order to make the increases more gradual for residents;

THEREFORE, BE IT RESOLVED, by the City Council of the City of Mitchell, SD that effective May 1, 2025 rates be amended to include the surcharges as listed below for CW-13, CW-15, and DW-08 to be taken out of the existing rate amounts.

<u>Water Rates</u>

		4/1/2025	10/1/2025
Base Rate	1" and less	$18.62	$20.50
	1 1/2"	$37.24	$41.00
	2"	$59.60	$65.60
	3"	$111.74	$123.00
	4"	$186.24	$205.00
	6"	$372.50	$410.00
Water Usage		$7.32	$8.16

<u>Water rates include the following surcharges that are segregated from the total fees collected:</u>

$1.78/month/user	DW- 02	Water Storage Tank
$.85/month/user	DW-05	West Water Tower Repairs
$10.30/month/user	DW-06	Ground Storage Tank Project
$1.94/month/user	DW-07	Water System Improvements
$1.10/month/user	DW-08	5th Street- Burr to Foster

<u>Sewer Rates</u>

		4/1/2025	10/1/2025
Residential	Base	$31.33	$32.03
	Volume	$4.31	$4.41
Non Residential	Base	$31.33	$32.03
	Volume	$5.39	$5.51
Industrial	Base	$31.33	$32.03
	Volume	$4.29	$4.39
	BOD	$ 0.94	$0.96
	TSS	$ 1.38	$1.42
	TKN	$ 5.17	$5.29

Sewer rates include the following surcharges that are segregated from the total fees collected:

$8.05/month/user	CW-05	Sanborn Phase II
$3.70/month/user	CW-06	East Central Drainage Phase I
$.99/month/user	CW-07	East Central Drainage Phase II
$1.11/month/user	CW-08	Daily Drive Lift Station
$11.60/month/user	CW-09	Waste Water Treatment Plant Improvements Phase I
$9.36/month/user	CW-10	Waste Water Treatment Plant Improvements Phase II
$3.47/month/user	CW-11	Waste Water System Improvements
$.77/month/user	CW-12	Livesay Improvements
$4.12/month/user	CW-13	S. Wastewater Treatment Plant Improvements
$2.60/month/user	CW-15	5th Street Burr to Foster

Motion carried and resolution declared duly adopted.

Moved by Tjarks, seconded by Barington, to approve Resolution #R2025-25, 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, as follows:

RESOLUTION NO. R2025-25

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 Mitchell (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 Mitchell Fifth Avenue Utilities 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. <u>Authorization of Loan, Pledge of Revenue and Security</u>.

3.1. <u>Authorization of Loan</u>. The City hereby determines and declares it necessary to finance up to $2,350,000 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. <u>Approval of Loan Agreement</u>. 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. <u>Approval of Revenue Bond</u>. The issuance of a revenue bond in a principal amount not to exceed $2,350,000 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. <u>Pledge of Revenues.</u> 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. <u>Special Charge or Surcharge for Revenue Bond</u>.

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. <u>Rates and collection</u>. 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. <u>Initial Surcharge.</u> 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 Mitchell, 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 25th 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. <u>Project Surplus Account</u>. 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. <u>Approval of Paying Agent/Registrar.</u> 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. <u>Approval of Bond Counsel.</u> Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

SECTION 9. <u>Tax Matters</u>. 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 20th day following its publication, unless suspended by a referendum.

Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by Smith, to approve Resolution #R2025-26, 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, as follows:

RESOLUTION NO. R2025-26

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 Mitchell (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. <u>Definitions</u>. 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 Mitchell Fifth Avenue Utilities 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. <u>Declaration of Necessity and Findings</u>.

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 $1,325,000 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 $1,325,000 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 a 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 Mitchell, 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 25th 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. <u>Depreciation Account</u>. 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. <u>Project Surplus Account</u>. 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. <u>Approval of Paying Agent/Registrar.</u> 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. <u>Approval of Bond Counsel.</u> 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 20th day following its publication, unless suspended by a referendum.

Motion carried and resolution declared duly adopted.

Moved by Tjarks, seconded by Sabers, to approve Resolution #R2025-32, Creating Tax Increment District #41 and Approving Project Plan, as follows:

RESOLUTION #R2025-32

A RESOLUTION PROVIDING FOR THE CREATION OF CITY OF MITCHELL TAX INCREMENTAL DISTRICT NUMBER FORTY-ONE

WHEREAS, the City of Mitchell has the power, pursuant to SDCL 11-9-2, to create Tax Incremental District Number Forty-one (TID 41) and to define the district's boundaries; and

WHEREAS notice of the hearing before the city planning commission was provided pursuant to SDCL 11-9-3; and

WHEREAS, the City of Mitchell Planning Commission held a hearing on April 28, 2025 at which any interested parties were afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district; and

WHEREAS the City of Mitchell Planning Commission after said hearing has recommended the proposed plan for Tax Incremental District Number Forty-one and has recommended its creation, setting the boundaries as listed in the project plan, and recommending adoption of the project plan.

THEREFORE, IT IS HEREBY RESOLVED:

1. Pursuant to SDCL 11-9-5, there is hereby created, as of May 5, 2025, the City of Mitchell Tax Incremental District Number Forty-one (TID 41). TID 41 is legally described as follows:

   Lots One (1), Two (2), Three (3), Four A (4A), Five (5), Six (6), Seven (7) and Eight (8), in Block One (1), and Lots Three (3), Four (4), Five (5) and Six A (6A) in Block Two (2), Woods First Addition to the City of Mitchell, Davison County, South Dakota; and

   That portion of South Mattie Street right of way located between East 1st Avenue on the north and East Havens Avenue on the south, including the intersections at such locations, to the extent such areas are subject to the city's jurisdiction;

   with a map showing said boundaries included in the Project Plan presented to Council on May 5, 2025.

2. A hearing by the City of Mitchell Planning Commission concerning the creation and boundaries of TID 41 was held on April 28, 2025.

3. The City Council, in consideration of the project plan, other documentary evidence, and testimony, hereby makes the following findings:
   a. Pursuant to SDCL 11-9-8, not less than fifty percent (50%) by area of the real property within the proposed tax increment district will stimulate and develop the general economic welfare and prosperity of the City of Mitchell and State of South Dakota through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources;
   b. Further pursuant to SDCL 11-9-8, the improvement of the area is likely to enhance significantly the value of substantially all of the other real property in TID 41;
   c. Pursuant to SDCL 11-9-13, the project plan for TID 41 includes information satisfying each of the 5 requirements contained therein;
   d. Pursuant to SDCL 11-9-16, the project plan for TID 41 includes information satisfying each of the 6 requirements contained therein; and

e. The plan is feasible and in conformity with the master plan of the City.
f. The aggregate assessed value of the taxable property in the District, plus all other tax incremental districts does not exceed ten (10%) percent of the total assessed valuation of the City.
g. TID 41 will be designated as an Annual Appropriations TIF to ensure that it does NOT count against constitutional debt.

4. Based on the findings in Section 3 above, the City hereby approves and adopts the project plan and the proposed boundaries as recommended by the City of Mitchell Planning Commission.

5. The City hereby directs the City of Mitchell Finance Officer to take such action as is deemed necessary to accomplish SDCL 11-9-20.

6. There is hereby created, pursuant to SDCL 11-9-31, the Tax Incremental District Number Forty-one Fund (TID 41 Fund).

7. All tax increments collected pursuant to TID 41 shall be deposited into the TID 41 Fund.

8. All funds in the TID 41 Fund shall be used solely for the purposes expressly stated and reasonably inferred in SDCL 11-9.

9. The City finds that the aggregate assessed value of the taxable property in the district plus the tax incremental base of all other existing districts does not exceed ten percent of the total assessed value of taxable property in the municipality.

10. The project plan is on file with the City of Mitchell Finance Officer.

11. A Developer's Agreement consistent with the provisions of this Resolution and the Project Plan shall be approved by separate action of the City Council.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Goldammer, to approve Resolution #R2025-33, Creating Tax Increment District #42 and Approving Project Plan, as follows:

RESOLUTION #R2025-33

A RESOLUTION PROVIDING FOR THE CREATION OF CITY OF MITCHELL TAX INCREMENTAL DISTRICT NUMBER FORTY-TWO

WHEREAS, the City of Mitchell has the power, pursuant to SDCL 11-9-2, to create Tax Incremental District Number Forty-two (TID 42) and to define the district's boundaries; and

WHEREAS notice of the hearing before the city planning commission was provided pursuant to SDCL 11-9-3; and

WHEREAS, the City of Mitchell Planning Commission held a hearing on April 28, 2025 at which any interested parties were afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district; and

WHEREAS the City of Mitchell Planning Commission after said hearing has recommended the proposed plan for Tax Incremental District Number Forty-two and has recommended its creation, setting the boundaries as listed in the project plan, and recommending adoption of the project plan.

THEREFORE, IT IS HEREBY RESOLVED:

1. Pursuant to SDCL 11-9-5, there is hereby created, as of May 5, 2025, the City of Mitchell Tax Incremental District Number Forty-two (TID 42). TID 42 is legally described as follows:

   Lots One (1), Two (2), Three (3), Four A (4A), Five (5), Six (6), Seven (7) and Eight (8), in Block One (1), and Lots Three (3), Four (4), Five (5) and Six A (6A) in Block Two (2), Woods First Addition to the City of Mitchell, Davison County, South Dakota; and

   That portion of South Mattie Street right of way located between East 1st Avenue on the north and East Havens Avenue on the south, including the intersections at such locations, to the extent such areas are subject to the city's jurisdiction;

   with a map showing said boundaries included in the Project Plan presented to Council on May 5, 2025.

2. A hearing by the City of Mitchell Planning Commission concerning the creation and boundaries of TID 42 was held on April 28, 2025.

3. The City Council, in consideration of the project plan, other documentary evidence, and testimony, hereby makes the following findings:
   a. Pursuant to SDCL 11-9-8, not less than fifty percent (50%) by area of the real property within the proposed tax increment district will stimulate and develop the general economic welfare and prosperity of the City of Mitchell and State of South Dakota through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources;
   b. Further pursuant to SDCL 11-9-8, the improvement of the area is likely to enhance significantly the value of substantially all of the other real property in TID 42;
   c. Pursuant to SDCL 11-9-13, the project plan for TID 42 includes information satisfying each of the 5 requirements contained therein;
   d. Pursuant to SDCL 11-9-16, the project plan for TID 42 includes information satisfying each of the 6 requirements contained therein; and

e. The plan is feasible and in conformity with the master plan of the City.
f. The aggregate assessed value of the taxable property in the District, plus all other tax incremental districts does not exceed ten (10%) percent of the total assessed valuation of the City.
g. TID 42 will be designated as an Annual Appropriations TIF to ensure that it does NOT count against constitutional debt.

4. Based on the findings in Section 3 above, the City hereby approves and adopts the project plan and the proposed boundaries as recommended by the City of Mitchell Planning Commission.

5. The City hereby directs the City of Mitchell Finance Officer to take such action as is deemed necessary to accomplish SDCL 11-9-20.

6. There is hereby created, pursuant to SDCL 11-9-31, the Tax Incremental District Number Forty-two Fund (TID 42 Fund).

7. All tax increments collected pursuant to TID 42 shall be deposited into the TID 42 Fund.

8. All funds in the TID 42 Fund shall be used solely for the purposes expressly stated and reasonably inferred in SDCL 11-9.

9. The City finds that the aggregate assessed value of the taxable property in the district plus the tax incremental base of all other existing districts does not exceed ten percent of the total assessed value of taxable property in the municipality.

10. The project plan is on file with the City of Mitchell Finance Officer.

11. A Developer's Agreement consistent with the provisions of this Resolution and the Project Plan shall be approved by separate action of the City Council.

Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by Smith, to approve Resolution #R2025-34, Vacation of Public Rights-of-Way, 16 foot Alley in Bayside Overlook Subdivision (phase 1), as follows:

RESOLUTION #R2025-34

WHEREAS, The petitions and consent in writing of Horsemans' Sports, Inc, owner of the SE Quarter of the SE Quarter (SE ¼ SE ¼) situated East of North Harmon Drive, except the South 300 feet of the East 150 feet, containing approximately 25 acres in Section 4, T 103 N, R 60 W of the 5th PM, less Blocks 1, 2 and 3 of Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13; Rodeo Blues, LLC, owner of Tract 1 of Horseman's Addition to the City of Mitchell, Davison County, South Dakota; L&R Anderson Ranch, LLC owner of Lots 1 and 2, Block 1, Bayside Overlook

Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; Cindy K. Krall Living Trust, owner of Lot 3, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; Gerald W. Johnson, owner of Lot 4, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; Clifford R. & Becky Janene Jager, owner of Lot 5, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; Gary & Monica Trabing, owner of Lot 6, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; James D. & Susan M. Wright; Jon Krall Rev. Trust; Mary Krall Rev. Trust, owner of Lot 7 and the Southerly 50 feet of Lot 8, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; Koupal Family Trust, owner of Lot 9 and the Northwesterly 50 feet of Lot 8, running parallel to the lot line between Lot 8 and Lot 9, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota; Pamela J. Winegardner; Cynthia M. Dunlap; Marty Barington, owner of Lot 10 and the East ½ of Vacated Bayside Ave abutting said Lot 10, Block 1, Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13, Davison County, South Dakota respectfully in due and proper for, are requesting the Governing Body of the City of Mitchell to vacate alley right-of way described as set forth below pursuant to the statues in such cases made, and provided, particularly SDCL 9-45-7, et. Sep and petitioners respectfully show and represent the following:

> The 16 foot Alley as shown on the Plat of Bayside Overlook Subdivision (Phase I) in the SE ¼ of the SE ¼ of Section 4, T 103 N, R 60 W of the 5th P.M. in the City of Mitchell, Davison County, South Dakota, as recorded with the Davison County Register of Deeds in Book PB 11, Page 13. Said Alley is located adjacent to Lots 1 through 10 in Block 1 and a parcel of land described as the SE Quarter of the SE Quarter (SE ¼ SE ¼) situated East of North Harmon Drive, except the South 300 feet of the East 150 feet, containing approximately 25 acres in Section 4, T 103 N, R 60 W of the 5th PM, less Blocks 1, 2 and 3 of Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13.

WHEREAS, true copies of which are attached to the Petition on file with the City Finance Officer.

WHEREAS, the petition was presented to the City Council of Mitchell, South Dakota, in a regular meeting assembled on the 5th day of May, 2025.

WHEREAS, this council did thereupon consider said petition and did find that said Petition and Consent in writing requesting and consenting to the vacation of said alley was signed by all the owners of property abutting the alley sought to be vacated; and, WHEREAS, this Council did, by proper motion, made, seconded and carried in regular meeting assembled on the 5th day of May, 2025 deem it proper that the matter be proceeded with and did order that the said Petition be filed with the City Finance Officer and did order said Finance Officer to give notice of a hearing thereon, by publication, as required by law, that said Petition had been filed and that the same would be heard and considered by the Governing Body of the City on the 5th day of May, 2025 at 6:00 PM. In the Chambers of the City Council of the City of Mitchell Davison County South Dakota;

WHEREAS, said Council did meet to consider and hear said Petition on the 5th day of May, 2025 at the time and place specified in said Notice, and that the said Petition was duly heard and considered by this Council, the Petitioners and consideration of those objecting were heard by Council were presented in regards to said Petition, writing or otherwise; and,

WHEREAS, this Council having duly heard and considered said Petition finds:

1. That due notice of the hearing of said Petition was given by the City Finance Officer by publication of a Notice thereof in the form prescribed by law in the *Mitchell Republic*, a newspaper, printed and published in the City of Mitchell, South Dakota, for two (2) successive weeks, to-wit: April 16 and 23, 2025.

2. That the Petitioners are the sole owners of all of the property abutting the alley right-of-way requested to be vacated and have requested that the said alley right-of-way be vacated. Said owners having consented in writing to the vacation of the said alley and which consent is made part of the said Petition.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, South Dakota, in a regular meeting, on the 5th day of May, 2025 that alley identified as the 16 foot Alley as shown on the Plat of Bayside Overlook Subdivision (Phase I) in the SE ¼ of the SE ¼ of Section 4, T 103 N, R 60 W of the 5th P.M. in the City of Mitchell, Davison County, South Dakota, as recorded with the Davison County Register of Deeds in Book PB 11, Page 13. Said Alley is located adjacent to Lots 1 through 10 in Block 1 and a parcel of land described as the SE Quarter of the SE Quarter (SE ¼ SE ¼) situated East of North Harmon Drive, except the South 300 feet of the East 150 feet, containing approximately 25 acres in Section 4, T 103 N, R 60 W of the 5th PM, less Blocks 1, 2 and 3 of Bayside Overlook Subdivision, as depicted on the plat recorded with the Davison County Register of Deeds in Book PB11, Page 13 is hereby vacated.

Barington and Bathke abstained. Motion carried and resolution declared duly adopted.

Moved by Tjarks, seconded by Bathke, to approve Resolution #R2025-35, Plat of Lots A and B, a Subdivision of Lot 1 of the SE ¼ of Section 17, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota, as follows:

RESOLUTION #R2025-35

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 28th day of April, 2025; and

WHEREAS, it appears from an examination of the PLAT OF LOTS A AND B, A SUBDIVISION OF LOT 1 OF THE SE 1/4 OF SECTION 17, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, as prepared by Jeremy A. Wolbrink, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the PLAT OF LOTS A AND B, A SUBDIVISION OF LOT 1 OF THE SE 1/4 OF SECTION 17, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, as prepared by Jeremy A. Wolbrink, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Goldammer, to approve Resolution #R2025-36, Plat of Lot 2, Block 6 of the Woods First Addition, as follows:

RESOLUTION #R2025-36

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 28th day of April, 2025; and

WHEREAS, it appears from an examination of the PLAT OF LOT 2, BLOCK 6 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE E 1/2 OF THE SW 1/4 OF SECTION 23, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, as prepared by Jeremy A. Wolbrink, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the PLAT OF LOT 2, BLOCK 6 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE E 1/2 OF THE SW 1/4 OF SECTION 23, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, as prepared by Jeremy A. Wolbrink, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by Bathke, to approve Resolution #R2025-37, Plat of Lots 1 and 2 of Singapore Slab Tract 1, a Subdivision of the East ½ of the SE ¼ of Section 32, T 104 N, R 60 W of the 5th P.M., Davison County, South Dakota, as follows:

RESOLUTION #R2025-37

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 28th day of April, 2025; and

WHEREAS, it appears from an examination of the PLAT OF LOTS 1 AND 2 OF SINGAPORE SLAB TRACT 1, A SUBDIVISION OF THE EAST 1/2 OF THE SE 1/4 OF SECTION 32, T 104 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, as prepared by Jeremy A. Wolbrink, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the PLAT OF LOTS 1 AND 2 OF SINGAPORE SLAB TRACT 1, A SUBDIVISION OF THE EAST 1/2 OF THE SE 1/4 OF SECTION 32, T 104 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, as prepared by Jeremy A. Wolbrink, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Tjarks, to approve Resolution #R2025-38, Property Annexation at 5213 Fiala Road, as follows:

RESOLUTION #R2025-38

ANNEXATION OF LOT 4 OF FIALA'S ADDITION IN THE E1/2 of the NW1/4 OF SECTION 4, TOWNSHIP ONE HUNDERED THREE (103) NORTH, RANGE SIXTY (60), WEST OF THE 5TH P.M., DAVISON COUNTY SOUTH DAKOTA.

WHEREAS, Nickolaus J & Hilary Rockwell signed an annexation agreement on the 18th day of September, 2023 to annex the real property legally described as Lot 4 of Fiala's Addition in the E1/2 of the NW1/4 of Section Four (4), Township One Hundred Three (103) North, Range Sixty (60), West of the 5th P.M., Davison County South Dakota

WHEREAS: Nickolaus J & Hilary Rockwell are the sole owners and petitioners of the real property described in this resolution; and

WHEREAS: the real property is improved, as the residence of the undersigned Property Owners is located upon said real property; and

WHEREAS: the real property is contiguous to the corporate limits of the City of Mitchell, Davison County, South Dakota; and

WHEREAS: the undersigned Property Owners constitute at least three-fourths (3/4) of the registered voters in the territory sought to be annexed; and

WHEREAS: a visual depiction is hereto attached as an exhibit (Exhibit A).

NOW THEREFORE, be it resolved that in accordance with SDCL Chapter 9-4, the City Council of the City of Mitchell, Davison County South Dakota hereby annexes the above real property.

Motion carried and resolution declared duly adopted.

ORDINANCE:

Moved by Tjarks, seconded by Barington, to place Ordinance #O2025-04, Providing for Staggering of Mayoral and City Council Elections on second reading. Motion carried. Moved by Smith, seconded by Goldammer, to adopt Ordinance #O2025-04, Providing for Staggering of Mayoral and City Council Elections, as follows:

ORDINANCE #O2025-04

AN ORDINANCE PROVIDING FOR THE STAGGERING OF MAYORAL AND CITY COUNCIL ELECTIONS.

WHEREAS, The City of Mitchell's current standard election cycle has four city council members elected one year, four city council members and the mayor elected the following year, and no positions to be filled in the third year; and

WHEREAS, the cycle then repeats with position vacancies not altering the standard election cycle; and

WHEREAS, the City of Mitchell would like to stagger these elections so as to have the standard election cycle result in the election of four city council members one year, four city council members another year, and the mayor elected in the remaining year, with the cycle then repeating itself thereafter.

THEREFORE, BE IT ORDAINED BY THE CITY OF MITCHELL, SOUTH DAKOTA AS FOLLOWS:

Section 1.

That a NEW SUBSECTION be added to Mitchell City Code Section 1-5-5: MUNICIPAL ELECTIONS to read as follows:

"C. Staggering of Mayor and City Council Elections: In order to facilitate the staggering of elections for mayor and city council positions, the following provisions regarding temporarily changing the length of term for city elected officials shall apply:

1. For the mayoral election in 2027, which is the next standard election cycle for mayor, the term for the successful mayoral candidate in that election shall be two years. Then in 2029, the mayoral election shall again be for a two-year term.
2. When that mayoral term ends in 2031, the term for the office of mayor shall revert to the standard three-year term provided by Section 1-5-2 of this code.
3. City council positions shall remain on their existing three-year election cycles with the standard three-year term provided by Section 1-5-3 of this code.
4. Given the above, the election schedule through the year 2031 will be: no officers for the year 2025; half of the city council, for three-year terms, in 2026; half of the city council, for three-year terms, and the mayor, for a two-year term, in 2027; no officers for the year 2028; half of the city council, for three-year terms, and the mayor, for a two-year term, in 2029; half of the council, for three-year terms, in 2030; and the mayor, reverting to standard three-year terms, in 2031. All three groups of elected officials then stay on their respective cycle of being elected every three years for three-year terms.
5. Any vacancies for mayor or city council positions arising during a term shall be filled as provided by law. However, the filling of the vacancy for that position shall only be for the remaining term for the vacated position. The vacated position shall remain up for election on the next standard three-year election cycle for that position.

Section 2.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and ordinance declared duly adopted.

EXECUTIVE SESSION:

Moved by Goldammer, seconded by Barington, to go into Executive Session as permitted by SDCL 1-25-2(4) Negotiations. Motion carried.

Mayor Hanson declared the board out of executive session at 8:38 p.m. and the City Council to reconvene in regular session at 8:39 p.m.

ADJOURN:

There being no further business to come before the meeting, Mayor Hanson adjourned the meeting.

Michelle Bathke

Michelle Bathke
Finance Officer

Published once at the approximate cost of ____________.