

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:00 p.m. on Monday, February 5, 2018 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Mike Bachand, Rod Bradley, Rhea Crane, Steve Keszler, David Martinson and Ronald Waterland. Also present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Jason Anderson and Scott Peterson.

Motion by Martinson, second by Waterland and carried with all members present unanimously voting yes to approve the agenda.

Motion by Keszler, second by Crane and carried with all members present unanimously voting yes to go into executive session for one legal case, one contract and one personnel at 6:01 pm.

Motion by Waterland, second by Crane to return to regular session at 6:35 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Informational Reports:

- MUB Board - 12/29/17 minutes
- Planning Commission – 02/01/17 minutes

Announcements:

- On March 1st all recycle goods will be dropped off at the Exit 32 site.
- On February 19th City Hall will be closed for President's Day. The Council meeting will be held on February 20th.
- February Freeze this week at the Community Center. Half-price day passes and if you sign up for a year's membership you get a free month.
- The Mayor has received several thank-you letters from the recipients of the 2018 money donated by the City.

City Manager Ainslie reported:

- Payroll Changes – within budget:
 1. Community Center – Front Desk – Christine Patterson - \$8.85.

Motion by Keszler, second by Martinson and carried with all members present unanimously voting yes to approve the following items on the consent calendar with the exception of g.

- a. Consideration of minutes from the January 16, 2018 regular council meeting with the correction of Resolution 2018-09 having "City of Sturgis" added to it and correct Tyler Kaitfors wage to \$20.56.
- b. Consideration to set a public hearing for February 20, 2018 to vacate a plat for Sturgis Motorcycle Museum back and return it to the previously recorded plat of Lots 26-33 in Block 6 of Ft. Meade Addition at 999 Main Street.
- c. Consideration of setting a public hearing for February 20, 2018 for a zoning variance to the landscaping requirement for a parking lot for Brad & Lori Clark at 2316 Junction Ave.
- d. Consideration of setting a public hearing for February 20, 2018 for a zoning variance to front setback to install a shed roof over front door for Sam Mudlin at 1015 Nellie.
- e. Consideration of abatement of the Business Improvement District tax of 6 residential properties that is within the district.

- f. Consideration of Resolution 2018-13 - Plat of Lots 10-35 of Block 2, Lots 23-44 of Block 3, and Lots 1-9 of Block 4 of Dolan Creek Estates Subdivision.

**RESOLUTION 2018-13
RESOLUTION APPROVING PLAT**

WHEREAS, the statutes of the State of South Dakota require that plats of property within the jurisdiction of the City of Sturgis be submitted to the governing body for approval before the same are recorded in the Office of the Register of Deeds; and

WHEREAS, the City of Sturgis Planning and Zoning have presented to the Common Council of the City of Sturgis a plat of the following described real property for Dolan Creek LLC:

Plat of Lots 10 Through 35 of Block 2, Lots 23 Through 44 of Block 3, And Lots 1 Through 9 of Block 4, Dolan Creek Estates Subdivision (formerly a portion of Tract B1 of Murray Addition No. 2) Located in the SE ¼ Section 8, T5N, R5E, BHM City of Sturgis, Meade County, South Dakota.

WHEREAS, said plat meets the requirements of the statutes.

WHEREAS, that the municipality approves the plat, and that the written certification of the City's approval will be affixed to the plat, by the Mayor.

BE IT RESOLVED by the Common Council of the City of Sturgis, South Dakota, that the within and foregoing plat is hereby approved as provided herein.

Dated this 5th day of February, 2018.

Published: 02-15-2018

Effective: 03-07-2018

g. Consideration of the 2018 Policies and Procedures Manual.

Motion by Waterland, second by Keszler and carried with all members present unanimously voting yes to approve the 2018 Policies and Procedures Manual with the omission of the ambulance portion of the manual.

Motion by Crane, second by Bachand and carried with all members present unanimously voting yes to approve the following claims:

WAGES – Ambulance \$44,815.08; Attorney \$7927.61; Auditorium \$406.58; Buildings \$2311.56; Cemetery \$5255.61; City Manager \$8972.15; Community Center \$21,234.62; Finance Office \$18,706.12; Fire Department \$75.04; Human Resource \$14,061.33; Library \$18,067.43; Liquor \$13,048.84; Mayor and Council \$7523.54; Parks \$22,463.77; Planning & Permitting \$16,426.13; Police \$97,386.23; Rally \$14,687.49; Recreation \$5060.90; Sanitary Service \$31,283.71; Special Sales Tax \$3846.16; Streets \$25,904.53; Wastewater \$17,393.45; Water \$29,036.22; Federal Withholding \$42,329.01; FICA \$30,696.30.

COMBINED CASH FUND – First Interstate Bank, \$7,000.00, ATM

GENERAL – A&B Business, \$524.39, sup; Affordable Tire & Alignment, \$48.00, sup; Avaya, \$25.55, util; Bear Butte Valley Water, \$123.37, util; BH Energy, \$28,264.77, util; BH Occupational Medicine, \$180.00, prof fee; BH Rally & Gold, \$600.00, sup; Border States Electric, \$878.13, sup; Roger Burnham, \$3,500.00, prof fee; Butte Electric, \$588.69, util; CB&B

Aviation, LLC, \$450.00, sup; Century Business Products, \$199.91, sup; Chain Saw enter, \$169.52, sup; Children's Home Society, \$375.00, prof fee; City of Sturgis Water Dept., \$1,930.35, util; Jerry Cole, \$133.16, travel; Creative Product Sourcing, \$366.15, other; Dakota Hardware, \$474.96, sup; Double Star Computing, \$5,241.06, prof fee; Alice Doud, \$35.00, refund; Erin Dower, \$35.00, refund; Fence Crafters, \$868.50, sup; G&G Enterprises, \$129.00, resale; Great Western Tire, \$471.60, rep; Ken Grosch, \$30.00, other; Hillyard, \$312.96, sup; Holiday Inn Express, \$727.96, travel; J&L Services, \$40.00, rep; KT Connections, \$1,652.80, prof fee; Ketel Thorstenson, \$1,032.10, prof fee; Cerrina Lingwall, \$35.00, refund; Meade County Auditor, \$13,277.60, other; Meade County Register of Deeds, \$180.00, plat fees; Annette Moore, \$500.00, ins; Nebraska Salt & Grain, \$2,279.38, sup; Jamie Anderson Olsen, \$35.00, refund; Onsolve, \$4,893.00, pub; Park Avenue Car Wash, \$6.00, sup; Pitney Bowes, \$451.65, ren; Postmaster, \$2,500.00, sup; Print Mark-et, \$1,160.99, pub; Public Safety Equipment, \$165.45, sup; Rasmussen Mechanical Services, \$1,262.97, rep; RELM, \$3,641.00, equip; Richter's Tire & Exhaust, \$144.00, rep; Rushmore Communication, \$202.00, rep; S&C Cleaners, \$3,000.00, rep; SD School of Mines & Technology, \$1,344.60m travel; Skillpath/NST Seminars, \$398.00, other; Sturgis Motorsports, \$59.99, rep; Sturgis VFD, \$1,796.13, travel; Subway, \$99.80, sup; Jameson Tebben, \$33.15, sup; Tom's T's, \$394.94, other; Universal Athletic, \$502.36, ins; Vanway Trophy & Award, \$15.00, other VAST, \$2,450.47, util; Verizon Wireless, \$2,575.66, util; Weimer's Diner & Donuts, \$45.00, sup; West River Electric, \$821.32, util; Whisler Bearing, \$51.76, rep.

SPECIAL SALES TAX – Sturgis Area Chamber of Commerce, \$3,775.33; Sturgis Economic Development, \$8,500.00; VAST, \$320.50; Verizon Wireless, \$54.32.

CAPITAL IMPROVEMENT – Baseline Surveying, \$4,200.00; Brosz Engineering, \$7,658.22; ESRI, \$3,330.68; First Interstate Bank, \$948,232.60; Potomac Aviation Technology Corp., \$220.71; Universal Athletic, \$4,350.00.

BUSINESS IMPROVEMENT DISTRICT – Bob & Campbell Galloway, \$1,342.38; Homeslice Media, \$73.84.

EQUIPMENT REPLACEMENT FUND – Century Business Products, \$8,904.59.

LIQUOR – Arctic Glacier, \$73.22, resale; Black Hills Dakota Distillery, \$225.60, resale; Black Hills Energy, \$26.81, util; Cash-Wa Distributing, \$424.75, resale; Cask & Cork, \$231.50, resale; Century Business Products, \$.31, sup; City of Sturgis Water Dept, \$295.50, util; Coca Cola, \$445.50, resale; Dakota Hardware, \$11.49, sup; Double Star Computing, \$137.20, prof fee; Fisher Beverage, \$6,108.16, resale; Johnson Western Wholesale, \$12,300.13, resale; KT Connections, \$98.44, M&B Enterprises, \$315.50, resale; Pepsi Cola, \$120.10, resale; Prairie Berry, \$702.00, resale; Print Mark-et, \$68.29, pub; Quality Brands, \$7,278.94, resale; Republic Beverage, \$26,294.98, resale; Southern Glazer's of SD, \$864.74, resale; Sturgis Coffee Co., \$80.00, sup; True Brands, \$270.08, resale; Vast, \$292.31, util; Verizon, \$54.32, util.

WATER – BH Energy, \$8,471.83, util; Butte Electric, \$183.60, util; Century Business Products, \$14.81, sup; City of Sturgis Water Dept., \$124.00, util; Core & Main, \$230.35, sup; Credit Collections Bureau, \$225.46, prof fee; Dakota Hardware, \$15.08, sup; Dakota Pump, \$200.00, sup; Double Star Computing, \$398.13, prof fee; Hach Co, \$663.47, sup; Hawkins, \$1,041.50, sup; KT Connections, \$98.44, prof fee; Lock & Fixit, \$25.00, rep; Print Mark-et, \$68.29, pub; Richter's Tire & Exhaust, \$228.90, rep; Universal Athletic, \$38.64, ins; VAST, \$172.18, util; Verizon, \$214.81, util.

WASTEWATER – Advanced Engineering & Environmental, \$21,990.95, cap imp; BH Energy, \$3,694.84, util; BH Occupational Medicine, \$30.00, prof fee; Buckle Tree, \$22.50, sup; City of Sturgis Water Dept., \$20.86, util; Dakota Hardware, \$36.15, rep; Double Star Computing, \$352.82, prof fee; Fastenal, \$12.30, sup; KT Connections, \$98.44, prof fee; print Mark-et, \$68.29, pub; Runnings Farm & Fleet, \$199.98, rep; Sanitation Products, \$601.65, sup; Verizon \$140.05, util.

SANITATION – BH Energy, \$429.00, util; Buckle Tree, \$22.50, sup; Century Link, \$54.82, util; Dakota Hardware, \$35.99, sup; Diesel Machinery, \$91.76, rep; Double Star Computing,

\$352.83, prof fee; Fastenal, \$50.52, rep; Great Western Tire, \$28.00, sup; KT Connections, \$98.44, prof fee; Print Mark-et, \$68.29, pub; Rasmussen Mechanical Services, \$214.68, rep; Verizon, \$37.77, util.

AMBULANCE – BH Energy, \$598.02, util; BH Occupational Medicine, \$30.00, prof fee; Century Business Products, \$150.63, sup; City of Sturgis Water Dept, \$79.43, util; Dakota Hardware, \$4.58, sup; Double Star Computing, \$162.40, prof fee; Feld Fire, \$442.20, rep; Ft Meade VA Hospital, \$525.00, refund; Thomas Harvey, \$696.74, ins; Henry Schein, \$2,977.81, sup; Hilton Garden Inn, \$999.00, travel; Image Trend, \$336.00, prof fee; KT Connections, \$98.44, prof fee; Leavitt Heartland Insurance, \$478.00, ins; Medica, \$4.32, refund; Tom Price, \$250.00, fundraising; Print Mark-et, \$68.29, pub; Purchase Power, \$256.43, sup; SD Ambulance Assn, \$75.00, prof fee; VAST, \$167.73, util; Verizon, \$345.14, util;

Motion by Waterland, second by Crane and carried with Carstensen, Bradley, Crane, Keszler, Martinson and Waterland voting yes, Bachand voting no, to approve 1st reading of Ordinance 2018-01 – a Supplemental Appropriations Ordinance for the 2018 Budget.

Motion by Waterland, second by Crane and carried with all members present unanimously voting yes to approve 1st reading of Ordinance 2018-02 – Title 18 – Planning and Zoning – Modification to Highway Service Zone.

Motion by Martinson, second by Crane and carried with all members present unanimously voting yes to approve Resolution 2018-14 – Financing for the Public Works Campus Project.

RESOLUTION NO 2018-14

RESOLUTION RELATING TO THE IMPROVEMENT OF THE PUBLIC WORKS CAMPUS; AUTHORIZING AND DIRECTING THE ISSUANCE AND SALE OF A SALES TAX REVENUE BOND TO PAY THE COST OF SAID IMPROVEMENTS; DEFINING THE TERMS AND MANNER OF PAYMENT OF THE BOND AND THE SECURITY THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STURGIS, SOUTH DAKOTA, AS FOLLOWS:

SECTION 1. RECITALS, AUTHORIZATION AND FINDINGS.

1.01. Recitals and Authorization. (a) The City of Sturgis, South Dakota (the Issuer) operates an existing public works campus (the Facilities), for municipal purposes.

(b) The Issuer is authorized to borrow money and issue its revenue bonds under South Dakota Codified Laws, Chapters 10-52 (the Act) and 6-8B, in order to finance a portion of the cost of improvements to the Facilities (the Improvements). The Issuer is authorized to issue its obligations in order to defray the cost thereof, and to make all pledges, covenants and agreements authorized by law for the protection of the holders of the obligations.

(c) The Issuer is also authorized under the Act to levy a non-ad valorem tax (as defined in the Act), on the sale, use, storage and consumption of items taxed under South Dakota Codified Laws, Chapter 10-45 and 10-46, subject to certain exceptions; and the Issuer has enacted Title 20 of the Sturgis City Ordinances, as amended (the Sales Tax Ordinance), pursuant to the Act imposing the sales and use tax authorized by the Act within the Issuer (the Sales Tax).

(d) The Issuer covenants that so long as the Bond described hereunder remains Outstanding and unpaid:

(i) It will not amend or repeal the Sales Tax Ordinance in any way that would adversely affect the amount of Sales Tax which would otherwise be collected and deposited to the Revenue Bond Account described hereinafter. However, nothing shall prevent the Issuer from amending the Sales Tax Ordinance in order to comply with South Dakota state law or to make certain changes in the administration of the Sales Tax, provided that such changes would not materially adversely affect the owner of the Bond.

(ii) It will administer, enforce and collect, or cause to be administered, enforced or collected, the Sales Tax authorized by the Sales Tax Ordinance and shall take such action as is necessary to collect delinquent payments in accordance with the law.

(iii) It will keep or cause to be kept such books and records showing the proceeds of the Sales Tax, in which complete entries shall be made in accordance with standard principles of accounting, and the owner of the Bond shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipts of such Sales Tax.

(iv) In the event the Sales Tax of the Issuer is replaced and superseded, the revenues derived by the Issuer from the replacement source or sources, as received by the Issuer shall be appropriated in the same manner as the Sales Tax. From and after the date of a replacement, the outstanding Bond shall have a first and prior lien, but not necessarily an exclusive such lien, upon such replacement revenues to the extent therein specified, which lien shall be on a parity with the lien of the Prior Bonds and any other then outstanding Parity Sales Tax Debt, each as hereinafter defined.

1.02 Sale. The United States of America, acting through the United States Department of Agriculture (the Lender) has agreed, subject to certain terms and conditions, to lend the Issuer \$4,600,000 to finance the cost of the Improvements. The Issuer hereby accepts such terms. It is hereby found and determined to be necessary and expedient for the Issuer to issue and sell to the Lender, pursuant to the Act, its Sales Tax Revenue Bond, Series 2018 (the Bond), in the aggregate principal amount of \$4,600,000. The proceeds of the Bond will be used, together with funds on hand as may be required, to finance the Improvements and reimburse the Issuer for expenditures previously incurred by it to finance the costs of the Improvements.

1.03. Findings. (a) The issuance of the Bond of the Issuer of not more than \$4,600,000 in principal amount is hereby authorized, approved and confirmed, and the Mayor, Finance Officer and other appropriate officials of the Issuer shall be authorized to execute and deliver the Bond to the Lender, for and on behalf of the Issuer, upon receipt of the purchase price therefor. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Bond, and their execution and delivery of the Bond shall evidence such approval. The terms of the Bond, as so executed and delivered, shall be deemed to be incorporated herein by reference.

(b) It is hereby found and determined that the aggregate principal amount of the Bond, when added to all other indebtedness of the Issuer subject to its general (5%) debt limit, will not exceed 5% of the assessed value of the taxable property in the Issuer.

(c) The City has heretofore issued to the Lender its Sales Tax Revenue Bonds, Series 2010 (Build America Bonds—Direct Pay), currently outstanding in the amount of \$727,532 (the Prior Bonds). The City has determined that the conditions set forth in the resolutions authorizing

the Prior Bonds for the issuance of additional sales tax revenue bonds on a parity with the Prior Bonds have been met.

SECTION 2. TERMS AND EXECUTION.

2.01. Issuance of Bond. All acts, conditions and things which are required by the Act and laws of the State of South Dakota to be done, to exist, to happen and to be performed prior to the issuance of the Bond having been done, existing, and having happened, it is now necessary for this Board to establish the form and terms of the Bond, to provide for the security thereof, and to issue the Bond forthwith.

2.02. Terms. To finance the cost of the Improvements and to evidence the loan referred to in Section 1.02 hereof, the Issuer shall forthwith issue the Bond, in fully registered form, in the principal amount of \$4,600,000, dated as of the date of its delivery. The Bond shall be payable in installments of principal maturing in the years and amounts set forth in the Bond, with a final maturity not later than 40 years after the date of issuance thereof.

The Bonds shall bear interest at the maximum rate of 3.50% per annum on the installments of principal from time to time remaining unpaid. The principal of and interest on the Bond shall be payable to the registered holder thereof at the address appearing on the bond register of the Issuer.

2.03. Registration. The Bond shall be fully registered as to both principal and interest and shall be initially registered in the name of and payable to the United States of America. While so registered, principal of and interest on the Bond shall be payable at the Rural Development Office in Huron, South Dakota or such other place as may be designated by the Lender in writing, and delivered to the Finance Officer. The Finance Officer shall act as bond registrar and as such shall establish and maintain a bond register for the purpose of recording the names and addresses of the registered holder and its assigns, and the date of registration of any transfer.

2.04. Redemption. The Issuer shall have the right to prepay and redeem installments of principal, in whole or in part, and if in part in multiples of \$100, at a price equal to the principal amount to be redeemed plus accrued interest, on any installment due date, provided that so long as the Bond is registered in the name of the Lender, the Issuer may prepay any unpaid principal on any date. All such prepayments shall be applied to installments of principal in inverse order of their maturity dates. Prior to the date set for prepayment, the Finance Officer shall cause notice of the call for redemption to be published as required by law and, at least 30 days prior to the designated redemption date, shall cause notice of the call to be mailed to a registered holder of the Bond at its address as it appears in the bond register described in Section 2.03 hereof. The Finance Officer shall enter in the bond register the amount and date of each prepayment.

2.05. Execution and Delivery. The Bond shall be prepared under the direction of the Finance Officer and shall be executed on behalf of the Issuer by the signature of the Mayor, attested by the Finance Officer. When the Bond has been so executed and authenticated, it shall be delivered by the Finance Officer to the Lender upon payment by the Lender of the principal amount, and the Lender shall not be required to see to the application of the purchase price.

2.06. Assignment and Exchange. The Bond shall be transferable by the registered owner or its attorney duly authorized in writing upon presentation thereof to the Finance Officer together with a written instrument of transfer satisfactory to the Finance Officer and duly executed by the registered owner or its attorney. The following form of assignment shall be sufficient for the purpose:

“For value received _____ hereby sells, assigns and transfers unto _____ the within Bond of the City of Sturgis, South Dakota, and does hereby irrevocably constitute and appoint _____, Attorney, to transfer said Bond on the books of said Issuer with full power of substitution in the premises.

Dated: _____”

Such transfer shall also be noted on the Bond to be transferred and in the bond register. Upon request of the registered owner or transferee, and upon surrender of any Bond, the Issuer shall execute and deliver one or more other bonds, in denominations of \$100 or integral multiples thereof of an aggregate principal amount equal to the principal amount of the Bond which then remains unpaid, and maturing at the same time or times as the then unpaid principal installments of the Bond, and the Bond shall be promptly canceled by the Finance Officer. No service charge shall be made for such transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any tax, fee or governmental charge or other expense incurred by the Issuer with respect to such exchange. In the event of a request for the issuance of more than one new bond upon any such exchange, the Issuer shall make such provisions relative to the form of such bonds as shall be deemed necessary or desirable to ensure that the terms of and the security for the indebtedness represented by the Bond shall not be varied in any material respect by reason of such exchange.

SECTION 3. FUNDS AND ACCOUNTS. By the resolution authorizing issuance of the Prior Bonds, the City has established a Special Revenue Fund into which all Sales Tax collections shall be deposited. To secure the payment of principal of and interest on the Bond, the following funds and accounts within the Special Revenue Fund shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Bond:

3.01. Revenue Bond Account. For each month in which the Issuer receives Sales Tax from the State Department of Revenue, it will determine the amount of interest on and principal of the Bond which has accrued and is unpaid on the Bond through the end of the month in which such Sales Tax is received. From each such receipt of Sales Tax, there shall be set aside and credited to the Revenue Bond Account an amount equal to such accrued and unpaid interest and principal, until the balance in the Revenue Bond Account is equal to the total sum of the principal and interest to become due on the Bond on the next succeeding Interest Payment Date (as defined in the Bond). Moneys from time to time held in the Revenue Bond Account shall be disbursed only to meet payments of principal and interest on the Bond as such payments become due, provided that on any date when the outstanding Bond is due or prepayable by its terms, if the amount then on hand in the Revenue Bond Account is sufficient, with other moneys available for the purpose, to pay the Bond and the interest accrued thereon in full, it may be used for that purpose. In the event that sufficient moneys are not available in the Revenue Bond Account, including by transfer from the Reserve Account, the Issuer, to the extent it may at the time legally do so, may, but shall not be required to, temporarily advance moneys to the Revenue Bond Account from other funds of the Issuer on hand and available for the purpose.

3.02. Reserve Account. The City has created and established an account designated the “Reserve Account.” There shall be credited to the Reserve Account from Sales Tax proceeds, following application of Sales Tax revenues to the Revenue Bond Account as described herein and any debt service accounts established for Parity Sales Tax Debt, the amount of \$1,785.00 monthly until the amount on deposit in the Reserve Account is equal to \$214,176.00 (the “Reserve Requirement”). Thereafter, in the event that the amount on deposit in the Reserve Account shall fall below the Reserve Requirement, additional deposits shall be made from available Sales Tax to the Reserve Account until the Reserve Requirement is again reached.

Moneys credited to the Reserve Account may be used only for the payment of principal of and interest on the Bond or such other uses as shall be approved by the Lender and shall not disqualify the Bond as a tax-exempt obligation and shall be used only for debt service in the event that there are insufficient moneys in the Revenue Bond Account to meet such principal and interest payments promptly when due.

3.03. Deposit and Investment of Funds. The Finance Officer shall cause all moneys in the Revenue Bond Account and the Reserve Account (the Accounts) to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of Chapter 4-6A, South Dakota Codified Laws, in a deposit account or accounts, which shall be maintained so long as any of the Bond 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 moneys shall at any time be withdrawn from such deposit accounts except for the purposes of the Accounts as authorized in this resolution, except that moneys from time to time on hand in the Accounts may at any time, in the discretion of this Council, be invested in securities permitted by the provisions of Section 4-5-6, South Dakota Codified Laws. Income received from the deposit or investment of moneys shall be credited, handled and accounted for in the same manner as other moneys in the Accounts. The investment of the moneys on deposit in the Accounts is further restricted by the provisions of Section 7.01 hereof. Deposits and securities described in this section shall constitute “Qualified Investments.”

3.04. Additional Revenues or Collateral. The Issuer reserves the right at any time to pledge additional moneys, revenues or collateral as security for the Bond. Such pledge shall not be effective unless and until the Issuer receives an opinion of nationally recognized bond counsel stating that such pledge will not adversely affect the validity or tax exemption of the Bond.

3.05. Appropriation of Other Moneys. The Issuer reserves the right in any year while the Bond is outstanding to appropriate from moneys on hand and legally available for such purpose in its cash reserve accounts such amounts as this Council may specify and direct that such amounts be used to pay principal and interest on the Bond.

SECTION 4. PRIORITIES AND ADDITIONAL BONDS.

4.01. Priority of Bond Payments. If at any time the Sales Tax is insufficient to pay principal and interest then due on the Bond, any and all moneys then on hand shall be first used to pay the interest accrued on the Bond, and the balance shall be applied toward payment of principal of the Bond.

4.02. Additional Bonds. The Issuer reserves the right to issue additional bonds, payable from the Sales Tax, on a parity as to both principal and interest with the Bonds (together with the Bonds and Prior Bonds, the “Parity Sales Tax Debt”) in the manner and upon satisfaction of the conditions and subject to the limitations set forth in any loan or other security agreement between the City and the Lender, and if any Prior Bonds are then outstanding, subject to the limitations contained in the resolutions under which such Prior Bonds were issued.

SECTION 5. AMENDMENTS.

5.01. Amendments Without Bondholder Consent. The Issuer reserves the right to amend this resolution from time to time and at any time, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as this City Council may deem necessary or desirable and not inconsistent with this resolution, and which shall not adversely

affect the interest of the holder of the Bond, or for the purpose of adding to the covenants and agreements herein contained, or to the Sales Tax, other covenants and agreements thereafter to be observed, for the purpose of surrendering any right or power herein reserved to or conferred upon the Issuer, or for the purpose of authorizing the issuance of additional bonds in the manner and subject to the terms and conditions prescribed in Section 4. Any such amendment may be adopted by resolution, without the consent of the holder of the Bond.

5.02. Amendments With Bondholder Consent. With the consent of the holder of the Bond, the Issuer may from time to time and at any time amend this resolution by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof, or of any amending resolution.

SECTION 6. PAYMENT OF BOND.

6.01. General. When the liability of the Issuer on the Bond has been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holder of the Bond shall cease.

6.02. Payment. The Issuer may discharge its liability with reference to the Bond by depositing with the holder or holders thereof, or the paying agent or agents, if any, for such Bond on or before that date a sum sufficient for the payment thereof in full, or if any Bond shall not be paid when due, the Issuer may nevertheless discharge its liability with reference thereto by depositing with the holder or holders thereof, or the paying agent or agents, if any, a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

6.03. Prepayable Bond. The Issuer may also discharge its liability with reference to any prepayable Bond which is called for redemption on any date in accordance with its terms, by depositing with the holder or holders thereof, or the paying agent or agents, if any, on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due thereon, provided that notice of such redemption has been duly given as provided in the resolution authorizing the Bond.

SECTION 7. TAX MATTERS AND EFFECTIVE DATE.

7.01. Tax Matters. The Issuer covenants and agrees with the holders from time to time of the Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bond to become subject to taxation under the Internal Revenue Code of 1986, as amended (the Code), and applicable Treasury Regulations (the Regulations). The Finance Officer shall ascertain monthly the amount on deposit in the Revenue Bond Account. If the amount on deposit therein ever exceeds by more than \$100,000 the aggregate amount of principal and interest due and payable from the Revenue Bond Account within 13 months thereafter, such excess shall either (1) not be invested except at a yield equal to or less than the yield borne by the Bond, or (2) be used to prepay and redeem principal installments of the Bond. The Mayor and Finance Officer, being the officers of the Issuer charged with the responsibility for issuing the Bond pursuant to this resolution, are authorized and directed to execute and deliver to the Lender a certification in order to satisfy the provisions of Section 1.148-2(b) of the Regulations. Such certification shall state that on the basis of the facts, estimates and circumstances in existence on the date of issue and delivery of the Bond as therein set forth, it is not expected that the proceeds of the Bond will be used in such a manner that would cause the Bond to be an arbitrage bond, and the certification shall further state that to the best of the knowledge and belief of the officers there are no other facts, estimates or circumstances that would materially change such expectation.

7.02. Tax-Exempt Status of the Bond and Rebate. The Issuer shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Bond, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the Bond, and (3) the rebate of excess investment earnings to the United States.

7.03. Repeal. All provisions of all other ordinances, resolutions and other actions and proceedings of the Issuer and of this City Council which are in any way inconsistent with the terms and provisions of this resolution are repealed, amended and rescinded to the full extent

Adopted: 02-05-2018
Published: 02-15-2018
Effective: 03-07-2018

Motion by Martinson, second by Waterland and carried with all members present unanimously voting yes to approve authorizing the Finance Officer to publish the Rural Development Loan Resolution 2018-15 that was approved by Council on June 5, 2017.

RESOLUTION 2018-15

Position 5

USDA
Form RD 1942-47
(Rev. 12-97)

LOAN RESOLUTION
(Public Bodies)

FORM APPROVED
OMB No. 0575-0015

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STURGIS
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS
FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF
ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR
EXTENDING ITS PUBLIC WORKS CAMPUS PROJECT FACILITY TO SERVE
AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the City of Sturgis (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of 4,600,000.00 pursuant to the provisions of SDCL Title 9; and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible

- cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U. S. C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$ 10,000.
 4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
 5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
 6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
 7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
 8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
 9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.
 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and

reports as it may from time to time require.

- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
 - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
 - (b) Repairing or replacing short-lived assets.
 - (c) Making extensions or improvements to the facility.

Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.

- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 4,600,000 under the terms offered by the Government; that the Mayor and City Manager of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee

The vote was: Yeas 7 Nays 0 Absent 2 .

IN WITNESS WHEREOF, the CITY COUNCIL OF THE CITY OF STURGIS has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 5th day of February, 2018.

Published: 02-15-2018
Effective: 03-07-2018

The following bids were received for the 1st Street curb/gutter/sidewalk project: Iverson Construction - \$55,981.55; Complete Contractor Solutions - \$61,305; Tru-Form Construction - \$78,023.10.

Motion by Waterland, second by Martinson and carried with all members present unanimously voting yes to award the low bid to Iverson Construction for the amount of \$55,981.55 for the 1st Street curb/gutter/sidewalk project and to have the City Manager sign all documents associated with this project.

Any other business:

Janeen Walker asked that the bump outs on Middle Street and Main Street be removed and reconstructed. Walker would also like to have a photo tower on the 900 block during the Rally. There was a concern about Public Works plowing in her driveway after it has been cleaned out.

Motion by Waterland, seconded by Crane and carried with all members present unanimously voting yes to adjourn the meeting at 7:18 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

Published once at the total approximate cost of \$