

**COUNCIL PROCEEDINGS  
REGULAR MEETING  
April 2, 2018**

A regular meeting of the Philip City Council was held on Monday, April 2, 2018, at 7:00 p.m. in the Community Room of the Haakon Co. Courthouse. Present were Mayor Michael Vetter, Council Members Trisha Larson, Brit Miller, Jennifer Henrie, Marion Matt, Marty Gartner and Scott Pinney. Also present were City Administrator Brittany Smith, Finance Officer Monna Van Lint, Public Works Director Matt Reckling, Chief of Police David Butler, City Attorney Stephanie Trask, Jeff McCormick with SPN & Assoc., Del Bartels with the Pioneer Review, Virgil & Carla Smith, Kevin & Cindy Pfeifle, Mike & Katie Schultz, Don & Carmen Fees, Barry & Edna Knutson, Norm Payne, Colton Mayer, Nick Konst, Sara Pfeifle & Addison Brooks, Gloria French; and, Fay Hauk.

Absent: None.

Motion was made by Henrie, seconded by Pinney to approve the agenda as presented. Motion carried.

Motion was made by Matt, seconded by Gartner to approve the minutes of the last meeting(s) as published in *The Pioneer Review* and on the City's website. Motion carried.

Motion was then made by Matt, seconded by Miller to approve the payment of the bills from the appropriated funds as listed below. Motion carried.

**Gross Salaries – March 30, 2018:** Mayor & Council - \$4780.00; Adm. - \$6583.19; Public Works - \$3553.33; Police - \$6229.59; Street - \$6219.20; Water - \$2920.66

Colonial Life	Employee Supplemental Ins 3/18	237.08
EFTPS	S.S., Medicare, Withholding 3/18	6396.34
NE Child Support Pay Ctr	Garnishment 3/18	659.18
SDRS	Employee Retirement 3/18	3359.27

**Sunshine Drive Overlay:**

Petty Cash	Plats 3/18	2.00
SPN & Assoc.	Design (Completion) 3/18	3200.00

**SW Philip Improv Project**

SPN & Assoc.	Final Design Eng thru 3/18	5480.00
VISA – UMB Bank	Postage 3/18	46.00

**This Month's Bills:**

American Red Cross	2018 LTS Fees	300.00
Bad River Law Prof LLC	Atty/Legal Fees 3/18	500.00
Brucklacher, Derek	Cust Deposit Refund 3/18	12.98
CNH Productivity Plus Acct	Supplies 2-3/18	4.04
Core & Main LP	Water Resale 3/18	2338.36
Corporate Trust – US Bank	SRF Loan #4 Pay #15 4/18	11326.05
	SRF Loan #5 Pay #15 4/18	7905.24
Country Cupboard	2018 Approp	1000.00
Delta Dental	Dental Ins 4/18	713.00
Display Sales	City Flags 3/18	319.50
1 <sup>st</sup> Nat'l Bank – Philip	UB Postage 3/18	122.92

Golden West	Telephone 2-3/18	582.12
Haakon Co Library	2018 Telephone Approp	1500.00
Haakon Co Register of Deeds	Filing/Recording Fees 3/18	60.00
Haakon Co Treasurer	Office Rent 4/18	500.00
Hanson Oil	Fuel/LP 2-3/18	2236.27
Health Pool of SD	Health Ins 4/18	9465.62
MG Oil Co	Fuel 2/18	34.14
Michael Todd & Co.	Grader Blades 3/18	1698.37
Office Depot	Supplies 3/18	68.09
Optilegra	Vision Ins 4/18	95.70
Petty Cash	Postage 2-3/18	25.38
Philip Hardware	Supplies 3/18	57.75
Philip Motor	Sewer Truck Repairs 3/18	165.50
Pioneer Review	Publishing 3/18	1344.22
Quill Corp	Supplies 3/18	48.16
SD Assoc of Code Enf	Mtg Reg 4/18	190.00
SD Dept. of Revenue	Sales Tax 3/18	391.09
	Excise Tax 3/18	28.26
	License Plates 2018	112.75
	Water Coliform Testing 3/18	15.00
Smith, Brittany	Mileage Reimb 3/18	93.09
The Philip Pit Stop	Fuel 3/18	665.58
USPS	Stamps 4/18	242.00
Verizon Wireless	Cell Phone 1-2/18	162.96
VISA-UMB Bank	Supplies/Equip 2-3/18	150.66
Walker Refuse	368 Residential Collections 3/18	4857.60
West Central Electric	Electric Chgs 1/29-3/1/18	3455.06
WR/LJ Rural Water Systems	2,014,000 gals 3/18	2517.50
	Contract Min 3/18	2500.00
	Airport Water 3/18	40.00
	South Shop Water 3/18	20.00
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Total Expenditures – 4/2/18		\$66,592.96

**Old Business:**

Council reviewed correspondence from Zach Thomsen with SD Game, Fish & Parks (GF&P) regarding the Bad River Archery Park. The park was completed on March 28<sup>th</sup>. It includes a fixed range as well as other targets and a trail system.

For the record, the City had previously agreed to mow the target range area and paths.

Mayor and Council thanked Mr. Thomsen and the SD GF&P for all their work on bringing this improvement to our community.

**New Business:**

Motion was made by Miller, seconded by Gartner to approve the City Administrator job description. Motion carried.

An Oath of Office was then taken by City Administrator Brittany Smith.

**Building/Flood Plain Dev. Permits:**

Shelly McLaughlin – dog kennel; Rick & Peggy Palecek – add on to deck; and, Virgil & Carla Smith – shed.

Motion was made by Matt, seconded by Pinney to approve the above permit as presented. Motion carried.

Philip Charities Housing Project – Assistance Request:

Motion was made by Miller, seconded by Gartner to approve Philip Charities demolition permit as well as their request for the City to demolish and remove the structure at 101 N. Dakota Ave. Philip Charities will be billed for these services per the agreement between the City and Philip Charities. Motion carried.

Council went on to review an amendment to City Ordinance #6-204 and #6-205. It was noted that during the recent equalization meeting, it was recommended to change the threshold amounts for residential properties and special classifications to \$20,000. In reviewing this with Toni Rhodes, Haakon County Director of Equalization, she had suggested the Council consider raising the special classification to \$50,000 instead of \$20,000. Her example was that of a store front window which can cost around \$18,000.

It was mentioned that a \$20,000 improvement is still a considerable improvement, especially to a small business. In addition, the intent of the ordinance is to promote and give a tax break on such improvements.

Following, motion was made by Gartner, seconded by Matt to proceed with the Council’s previous action and approve the first reading of the following Ordinance #2018-13 as presented. Motion carried with all members voting aye.

**ORDINANCE #2018-13  
AMENDING ORDINANCE SECTIONS IN CHAPTER 6 OF THE REVISED  
ORDINANCES OF THE CITY OF PHILIP, SD**

**BE IT ORDAINED** by the City Council of the City of Philip, South Dakota, that the following section 204 and 205 be amended in Chapter 6, Sales and Gross Tax Receipts Taxes—Discretionary Taxation of Real Property, of the revised ordinances of the City of Philip and read as follows:

**6-204 RESIDENTIAL STRUCTURES**

Any new residential structure, or any addition to or renovation of an existing structure, located within a redevelopment neighborhood, which new structure, addition, or renovation has a true and full value of twenty thousand dollars (\$20,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-207.

In order to improve the quality of housing, all real property located within the Corporate limits of the City of Philip, South Dakota shall qualify as property located in a redevelopment neighborhood. The redevelopment neighborhood is being established because the area includes buildings or improvements which, by reason of age, deterioration, obsolescence, and dilapidation injuriously affect the area to the detriment of public health, safety, morals or welfare; and, because the redevelopment of housing is being prevented by the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness; the deterioration of site improvements, and obsolete platting. *(Pursuant to SDCL 10-6-54, 10-6-55 & 10-6-56)*

**6-205 SPECIAL CLASSIFICATIONS**

All industrial, commercial, commercial residential real property which increases more than twenty thousand dollars (\$20,000) in true and full value as a result of reconstruction or renovation of structures is specially classified for purposes of taxation. All real property qualifying under this section completed on November 01, 2011 and thereafter, as determined by the Director of Equalization, is classified in the manner prescribed in this section. The increase in true and full value resulting from the reconstruction or renovation of qualifying property shall be given tax treatment in the manner provided in *SDCL 10-6-35.2* and *SDCL 10-6-35.19* and shall qualify to be assessed pursuant to the discretionary formula described in Section 6-207.

Dated this \_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
Michael Vetter, Mayor

ATTEST:

\_\_\_\_\_  
Monna Van Lint, Finance Officer

Passed First Reading: Apr. 2, 2018  
Passed Second Reading:  
Yeas:    Nays:  
(Published: Apr. 12, 2018)

Council reviewed the following L/P Propane bids received in March:

	<u>Mar. 12, 2018</u>
Hansen Oil Company	\$1.45/gal.
Midwest Cooperatives	\$1.49/gal.

Southwest Philip Improv. Project:

At 7:10 p.m., as previously advertised, a public hearing was held on the Proposed Resolution of Necessity for the project.

Mayor Vetter opened the floor for any comments for or against the resolution as proposed.

Don Fees advised that the majority of the property owners along Oak St. are against narrowing the street width as proposed in the plans. He questioned, “What do we do to get this changed back to its current width?”

Vetter advised that the proposed resolution can be protested and referenced SDCL 9-43-86. This states that the resolution shall be become effective unless a protest petition signed by more than 55% of the owners of the property to be assessed is filed with the finance office within 20 days of publication of said resolution. This law also allows the governing body to proceed with the project if the petition is denied by a two-thirds vote of the council.

It was further noted that if the property owners are desiring to stop or change a scope of the project, that would apply to all property taxpayers—not just those in the project area. This is due to the fact that the project affects the entire City while the proposed resolution of necessity only affects those along the project. The City will look into this further, but for the record, a petition would need to be brought forth by the registered voters in the format required by State Election Code.

A lengthy discussion ensued. The highlights are as follows.

Kevin Pfeifle mentioned that there is a great deal of opposition to narrowing the street. In his opinion, "It would save a lot of trouble if the City would just change the plans back to the current widths of the streets."

Vetter polled those in the audience that do not live along Oak St. and asked if they were against the plans to narrow the street. The response included two individuals. (For the record, one of those individuals later revoked their position.)

Mike Schultz advised that in visiting with some of his neighbors, they are refusing to attend any more meetings to discuss the project. He stated, "They don't feel their opinions are being considered. In addition, they haven't been given the opportunity to speak nor were they given the ability to be involved during the beginning of the project." He also mentioned Mayor Vetter's previous response of "No compelling reason to change the proposed street widths."

Norm Payne added that he was initially against narrowing the street widths. He mentioned that he drove around town and looked at the other streets with a similar width. In turn, his opinion changed and he has no concerns with the plan to narrow the streets anymore.

Cindy Pfeifle stated, "The Street is an asset at its current width. Why forfeit this asset?"

Vetter explained that the cost savings of narrowing the street width is allowing the City to also complete an asphalt overlay on Sunshine Drive. In addition, there are future cost savings with the maintenance of the street.

Council Member Gartner advised that the City did the same thing with the Wood/Walden Ave. project which allowed the City to also complete an overlay on E. Pine St. and Wray Ave. He questioned, "Would you, the property owners, like the City to abandon this project as a whole? If we change the plans now, we may have to start over with funding and could possibly lose some of the grant dollars. In addition, are the property owners willing to pay for the additional street width?"

Kevin Pfeifle mentioned that other aspects of the plans have changed since the beginning. For instance, rock in the boulevard areas are now being assessed. He also questioned about the changes to the first block of Oak St. and how those affect the project funding?

Jeff McCormick with SPN & Assoc., advised that the necessary changes to the first block of Oak St. reduced the project costs in this area.

(For the record, assessing the rock in the boulevard areas is consistent with how the boulevard areas were addressed during the Wood/Walden Ave. project.)

Sara Pfeifle questioned the City's radar sign and if this has been used to compare counts for Oak St. traffic to other residential streets. She stated, "Oak St. has a lot of traffic and she would like to see how it compares to other streets. Her main concern with narrowing the street is for the children as they cannot be replaced."

Council Member Matt questioned how many of the property owners in the area are against narrowing the street? He also questioned if they would rather leave the street as is with no improvements?

Don Fees mentioned that three-quarters of the property owners along Oak St. are against narrowing the street. In addition, both Mr. Fees and Cindy Pfeifle stated that they would prefer to leave the street in its current condition than have it replaced with a narrower street.

Katie Schultz also added that she just recently learned that West Ave. will also be narrowed to a 41' width. She voiced concern as traffic parks at an angle in front of the Redeemer Lutheran Church.

It was mentioned that City Ordinance only allows parallel parking on residential streets. Unfortunately, this not being enforced by the church.

Mike Schultz then mentioned that during his meeting with the engineers, he voiced concern for the distance between fire hydrants in the area. He would appreciate if the City would consider installing another hydrant along Oak St., somewhere between West Ave. and Philip Ave.

McCormick agreed with Schultz, stating that a hydrant has been added in the plans to be installed at the intersection of Dakota Ave. and Oak St.

Virgil Smith then voiced his support for the project, but not necessarily that of narrowing the street. He stated, "He does not want to see the project thrown away. We need to fix the drainage and sewer problems in the area. These folks have done a lot of work to get the grant money and if we stall it, it is only going to cost more money. In the end though, he would like to see the project go ahead, but will stand with the neighborhood."

Vetter questioned McCormick as far as what it would take to revise the design plans back to the current street widths?

McCormick stated that it would take time so they would more than likely not be able to go to bid until late 2018. The loan funding applications were also submitted to the SD Dept. of Environment and Natural Resources (DENR) with the narrower street widths. The extra width may not be eligible for loan funding—may need to fund this with local cash on-hand. It was also stressed that the project will need to be completed by September 2019 in order to comply with the Community Development Block Grant (CDBG) requirements.

Gloria French questioned if they decided to do away with replacing Oak St. as part of the project, would that also include West Ave.? She stated, "I've been waiting 18 years for a decent street."

Council Member Larson advised that she is somewhat concerned about the amount of opposition this late in to the project.

Katie Schultz mentioned that while they do not get nor read the newspaper, the information they did receive came later than what they had hoped. In addition, we have not been given much opportunity to bring forth our concerns.

Kevin Pfeifle stated, "I'm ready to take out a petition."

Vetter reiterated that he is aware of some opposition amongst the property owners on Oak St., but has not heard any opposition from anyone else in the City. He stressed that the project affects all of the tax payers—not just in the project area. He stated, "We are not trying to make enemies. We are doing our best. We are also trying to make the best decision for the entire City."

Council Member Miller voiced concern for completing the project if a petition is filed.

Sara Pfeifle went on to state, “I would like to see a nice street. I am not against the project. It is the kids that are my concern—only opposed to narrowing the street.”

Vetter questioned McCormick about the standard street widths in Mitchell. He stated that he is not wanting to compare Philip to a larger town, but is interested for the fact that they have more traffic.

McCormick stated that the street he lives on in Mitchell is 41’ in width.

The clay sewer pipe that is to be replaced with this project was also mentioned. It is past its useful life and there have been many sewer problems in the area. Should the project be delayed, who knows how long the sewer will last.

Vetter then questioned how much of an increase the City could anticipate if they change the street width design back to the current width?

McCormick noted that the costs could increase \$60,000 to \$70,000. It will depend on how the bids come in and once again, if funding agencies will allow the additional width. He also mentioned that during their meetings with the property owners, only two commented on the proposed street width. In addition, if the design needs to be changed, it could be later this year before they are ready to go to bid. He stated that there are contractors looking for work now and costs could increase another 10-15% depending on the timing of the bid.

Discussion ensued on how to proceed with the project. It was suggested to contact SD DENR to determine if they will fund the extra width through additional loan dollars. It was also stressed that the City does not want to lose the grant funds in place for this project. If a petition is filed requiring an election, the project will be delayed and grant funds may be lost. Concerns were mentioned for not only the sewer mains, but also the drainage issues in the area as they are what started this project—more than just the street surface. It was recommended to proceed with approving the Resolution of Necessity as that only affects the assessments—not the street width design. That will be reviewed further following more information from SD DENR during the April 9<sup>th</sup> special meeting.

Following, motion was made by Miller, seconded by Gartner to approve the following Resolution #2018-08 as presented below (For the record, some of the assessment amounts changed between the Proposed Resolution of Necessity #2018-05 and the Resolution of Necessity #2018-08. The property owners were notified and confirmed said changes). Motion carried with all members voting aye.

**RESOLUTION #2018-08  
RESOLUTION OF NECESSITY**

**WHEREAS**, the City of Philip, South Dakota, has proposed a resolution of necessity; and,

**WHEREAS**, the City of Philip, South Dakota, has published and mailed said notices as required by South Dakota Codified Laws; and,

**WHEREAS**, the City is ready to proceed with the project and again declares the necessity to make the improvements.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Philip, South Dakota, at a regular meeting thereof, held in the Community Room, located on first floor of the Haakon County Courthouse in the City of Philip at 7:10 p.m. on the 2<sup>nd</sup> day of April 2018, that the

convenience and necessity has arisen to improve substantially the following in the City of Philip, Haakon County, South Dakota, by the addition of curb, gutter, driveway, sidewalk, landscape rock and sidewalk drain improvements where needed in the Southwest Philip Improvement Project. Such properties affected being hereinafter named on the attached list marked "Exhibit A" with the projected location being as follows:

City of Philip encompassing Oak Street (east from Larimer Avenue to Philip Avenue); S. Howard Avenue (south from Pine Street to Ash Street); S. West Avenue (south from Pine Street to Ash Street); and, Philip Ave. (intersection of Oak Street).

**BE IT FURTHER RESOLVED** that the material to be used in the project shall be according to the plans and specifications as prepared by the City's engineering firm, Schmucker, Paul, Nohr and Associates, in and for the City of Philip, South Dakota, and are on file in the office of the City Finance Officer and open for the public's review during regular office hours.

**BE IT FURTHER RESOLVED** that the cost of the curb, gutter, and sidewalk improvements shall be assessed against all assessable lots and tracts of land fronting or abutting thereon, according to the provisions of SDCL 9-43-76 as to each of such lots and tracts above stated. The total cost of the improvements shall include the total contract price and shall be assessed according to SDCL 9-43-78. This includes, on a lineal foot basis, **Type B66 Concrete Curb and Gutter** installation at an ESTIMATED construction cost of \$20.00 per lineal foot; on a lineal foot basis, **Type P6 Concrete Gutter** installation at an ESTIMATED construction cost of \$20.00 per lineal foot; on a lineal foot basis, **Type B68 Concrete Curb and Gutter** installation at an ESTIMATED construction cost of \$25.00 per lineal foot; on a lineal foot basis, **Type P8 Concrete Gutter** installation at an ESTIMATED construction cost of \$25.00 per lineal foot; on a lineal foot basis, **Barrier Curb** installation at an ESTIMATED construction cost of \$40.00 per lineal foot; on a square yard basis, for **Residential Driveway Approach** installation at an ESTIMATED construction cost of \$70.00 per square yard; on square yard basis, for **Commercial Driveway Approach** installation at an ESTIMATED construction cost of \$75.00 per square yard; on a square footage basis, for **Sidewalk** installation at an ESTIMATED construction cost of \$6.50 per square foot; on a cubic yard basis, for **Landscape Rock** installation at an ESTIMATED construction cost of \$170.00 per cubic yard; on a square yard basis, for **Driveway Removal on Private Property** at an ESTIMATED construction cost of \$5.00 per square yard; on an each basis, for Tree Removal on Private Property at an ESTIMATED construction cost of \$1,000 per each; and, on a unit basis, for **Sidewalk Trench Drain** installation at an ESTIMATED construction cost of \$1,150.00 per unit.

**BE IT FURTHER RESOLVED** that the City of Philip will cover the expenses for those improvements in the street and alley intersections, removals, gravel base course, engineering as well as the specific costs associated with the narrowing of the street width. The specific costs include those incurred from extending the existing driveway approaches and carriage walks as well as leveling/seeding the land through the current boulevard areas where the street width was narrowed.

**BE IT FURTHER RESOLVED** that the City of Philip has established a policy to cover 60% of the eligible assessment costs in order to be consistent with past projects wherein the City was the recipient of grant funds that covered 60% of the eligible costs. The City has determined that the following improvements as shown in the Final Plans dated March 2, 2018, are eligible assessment costs subject to the 60% discount: curb and gutter; barrier curb, residential driveway approaches; commercial driveway approaches; and, sidewalks. Those costs associated with landscape rock in the boulevard areas will be assessed at the cost difference between the seeding and rock installation. In addition, those costs associated with a sidewalk drain, driveway and tree removal on private property and any



additional improvements requested by the property owner will be assessed at 100% of the eligible costs per City policy.

**BE IT FURTHER RESOLVED** that the assessments will be divided into ten (10) equal annual installments, which shall be payable under Plan One, collection by the County Treasurer, as set forth in SDCL 9-43-102, and that all deferred installments shall bear interest at such rate as shall be determined by the City Council.

**BE IT FURTHER RESOLVED**, that the Resolution of Necessity is hereby adopted.

Dated this 2<sup>nd</sup> day of April, 2018.

THE GOVERNING BODY OF THE CITY  
OF PHILIP, SOUTH DAKOTA

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, City Finance Officer  
(Published: April 12, 2018)

**“Exhibit A”**

Name	Legal Description	100% TOTAL ESTIMATE D ASSESSED COST	TOTAL ESTIMATE D ASSESSED COST (Reflects Discounts)
Dakota Auto Supply, Inc.	Lots 6, 7, 8, 9, 10 & N2 Lot 11, Blk 8 Original Town, City of Philip	\$9,370.00	\$4,898.00
Dakota Auto Supply, Inc.	S2 Lot 11, Blk 8 Original Town, City of Philip	\$1,675.00	\$670.00
Haakon County	Lots 12 thru 22, Blk 8 Original Town, City of Philip	\$34,627.00	\$13,850.80
Dakota Auto Supply, Inc.	Lots 1 thru 9, Blk 9 Original Town, City of Philip	\$7,800.00	\$3,120.00
West Central Electric	Lots 10-11 & 12, Blk 9 Original Town, City of Philip	\$7,045.00	\$2,818.00
Presbyterian Church	Lot 1, Blk 22 Original Town, City of Philip	\$3,877.00	\$2,700.80
First Presbyterian	Lot 2, Blk 22 Original Town, City of Philip	\$2,904.00	\$1,161.60

James D. Osburn	Lot 3, Blk 22 Original Town, City of Philip	\$1,000.00	\$400.00
John Sandal	Lot 4, Blk 22 Original Town, City of Philip	\$1,000.00	\$400.00
John Sandal	Lot 5 & N20' of W2 Lot 6, Blk 22 Original Town, City of Philip	\$2,828.00	\$1,131.20
Rita & Douglas Ramsey	S30' of W2 Lot 6 & W2 Lot 7, Blk 22 Original Town, City of Philip	\$2,615.50	\$1,046.20
Lois A. Porch	E2 Lots 6 & 7, Blk 22 Original Town, City of Philip	\$6,569.00	\$2,627.60
Lou Ann Reckling	E70' Lots 8 & 9, Blk 22 Original Town, City of Philip	\$2,154.00	\$861.60
Thomas E. Lesselyoung	W70' Lot 8 & S15' of W70' Lot 9, Blk 22, Original Town, City of Philip	\$3,384.50	\$1,353.80
Raymond & Karen Gibson	N35' of W70' Lot 9 & All Lot 10, Blk 22, Original Town, City of Philip	\$3,282.00	\$1,312.80
Donald & Deloris Poss	Lot 11, Blk 22 Original Town, City of Philip	\$1,000.00	\$400.00
Dorothy Stickler	Lot 12, Blk 22 Original Town, City of Philip	\$1,000.00	\$400.00
Dorothy Stickler	W2 Lots 13 & 14, Blk 22 Original Town, City of Philip	\$5,823.00	\$2,329.20
JTK Business Group LLC	N115' Lot 1, Blk 23 Original Town, City of Philip	\$4,516.50	\$1,806.60
Donald & Kerry Burns	S50' Lot 1, Blk 23 Original Town, City of Philip	\$2,469.00	\$987.60
Donald & Carmen Fees	Lot 7, Blk 23 Original Town, City of Philip	\$1,146.50	\$458.60
Donald & Carmen Fees	Lot 8, Blk 23 Original Town, City of Philip	\$2,466.00	\$986.40
Terry & Jennifer Henrie	Lot 9, Blk 23 Original Town, City of Philip	\$2,026.50	\$810.60
Cindy Pfeifle	Lots 10 & 11, Blk 23 Original Town, City of Philip	\$5,437.50	\$2,175.00

Cindy Pfeifle	S82.5' Lot 12, Blk 23 Original Town, City of Philip	\$3,605.50	\$1,442.20
Fay Hauk	N82.5' Lot 12, Blk 23 Original Town, City of Philip	\$2,391.50	\$956.60
Charles & Ruth Ann Carstensen	Lot 1, Blk 24 Original Town, City of Philip	\$7,534.00	\$3,013.60
Gene Rock	Lot 2, Blk 24 Original Town, City of Philip	\$2,388.00	\$955.20
Lee I Neville	Lot 3, Blk 24 Original Town, City of Philip	\$1,935.00	\$774.00
Colton Mayer	Lot 4 & E2 Lot 5, Blk 24 Original Town, City of Philip	\$3,364.00	\$1,345.60
Jack & Susan Heinz	W2 Lot 5, Blk 24 Original Town, City of Philip	\$648.00	\$259.20
Jack & Susan Heinz	Lot 6, Blk 24 Original Town, City of Philip	\$214.50	\$85.80
Rick & Selma Thorson	N60' Lots 11 & 12, Blk 24 Original Town, City of Philip	\$1,304.00	\$521.60
Harry Wade Schofield	S80' Lots 11 & 12, Blk 24 Original Town, City of Philip	\$3,533.50	\$1,413.40
Ann Fees	W2 Lots 1, 2 & 3, Blk 25 Original Town, City of Philip	\$4,253.00	\$1,701.20
Virgil & Carla Smith	E2 Lots 1 & 2 EX E2 of S20' of Lot 2, Blk 25, Original Town, City of Philip	\$4,220.00	\$1,688.00
Virgil & Carla Smith	E2 Lots 2 & 3, Blk 25 Original Town, City of Philip	\$2,700.00	\$1,080.00
Virgil & Carla Smith	All Lots 4 & 5, Blk 25 Original Town, City of Philip	\$1,000.00	\$400.00
George Lee & Nicole Dennis	Lots 6-7, Blk 25 Original Town, City of Philip	\$2,000.00	\$800.00
Redeemer Lutheran Church	Lots 8, 9 & 10, Blk 25 Original Town, City of Philip	\$4,721.60	\$1,888.64
KAMO Properties LLC	E70' Lot 11, Blk 25 Original Town, City of Philip	\$2,645.00	\$1,058.00

Jody Pease	W70' Lot 11, Blk 25 Original Town, City of Philip	\$4,839.50	\$1,935.80
Luke & Tiana Weber	Lot 8, Blk 1 Russells Addition, City of Philip	\$5,204.50	\$2,081.80
Steven McDaniel	Lot 9, Blk 1 Russells Addition, City of Philip	\$1,305.50	\$522.20
KAMO Properties LLC	Lot 10, Blk 1 Russells Addition, City of Philip	\$1,195.00	\$478.00
Daniel & Theresa Walker	Lot 11, Blk 1 Russells Addition, City of Philip	\$1,351.00	\$540.40
Norman Payne	Lot 12, Blk 1 Russells Addition, City of Philip	\$1,201.50	\$480.60
Michael Schultz	Lot 13, Blk 1 Russells Addition, City of Philip	\$1,728.00	\$691.20
Thelma Heltzel	Lot 14, Blk 1 Russells Addition, City of Philip	\$1,508.00	\$603.20
Hazel Rowcliffe	Lot 1, Blk 2 Russells Addition, City of Philip	\$715.50	\$286.20
Lee Wentz & Laurie Wentz c/o Terry & Barbara Wentz	Lot 2, Blk 2 Russells Addition, City of Philip	\$2,138.50	\$855.40
Ralph & Denise Simons	Lot 3, Blk 2 Russells Addition, City of Philip	\$2,171.50	\$868.60
Sara Pfeifle	Lot 4, Blk 2 Russells Addition, City of Philip	\$3,305.50	\$1,322.20
Martin & Vera Nelson	Lot 5, Blk 2 Russells Addition, City of Philip	\$1,598.50	\$639.40
James & Connie Sandstrom	Lot 6, Blk 2 Russells Addition, City of Philip	\$3,065.00	\$1,226.00
Patrick & Mary Lou Guptill	N67' Lot 7, Blk 2 Russells Addition, City of Philip	\$1,318.50	\$527.40
Truett & Daniella Fitch	Lot 7, Blk 3 Russells Addition, City of Philip	\$1,872.00	\$748.80

Truett & Daniella Fitch	Lot 8, Blk 3 Russells Addition, City of Philip	\$3,103.00	\$1,241.20
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**\$202,094.60      \$83,137.84**

Mayor and Council thanked the property owners for attending as they left the meeting at this time.

Motion was made by Matt, seconded by Miller to authorize allowing additional improvements on private property to be special assessed at 100%. This shall include driveways and tree removals. Motion carried.

Motion was made by Miller, seconded by Larson to authorize removing trees from the public ROW at no charge to the abutting property owners. Motion carried.

Council was advised that the Clean Water State Revolving Fund loans were approved as follows: Wastewater - \$605,000; and, Storm Sewer - \$536,000.

Motion was then made by Matt, seconded by Gartner to approve the following Resolution #2018-09 as presented. Motion carried with all members voting aye.

**RESOLUTION NO. 2018-09**

**RESOLUTION GIVING APPROVAL TO THE ACQUISITION,  
CONSTRUCTION AND FINANCING OF THE STORM SEWER  
IMPROVEMENTS PROJECT, GIVING APPROVAL TO THE ISSUANCE OF  
A BORROWER BOND TO FINANCE A PORTION OF THE COSTS OF SUCH  
PROJECT AND AUTHORIZING THE SALE OF SAID BOND**

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED** by the City Council of the City of Philip as follows:

1. Recitals. The City of Philip (the "City ") desires to make a capital improvement to and finance its Storm Sewer Improvements, as described in Exhibit A hereto (the "Project"), details on the project are on file with the Finance Officer and open to public inspection.
2. Authority. The City is authorized to issue a Borrower Bond to finance the capital improvements pursuant to Section 10-52-2.10 of the South Dakota Codified Laws. Pursuant to Chapter 10-52 of the South Dakota Codified Laws (the "Act") the City proposes to issue a municipal non ad valorem borrower bond (as herein authorized, the Bond, or the "Borrower Bond") to finance the Project. The City is authorized by the Act to levy a “non-ad valorem tax” (as defined by the Act) on the sale, use, storage, and consumption of items taxed under Chapters 10-45 and 10-46 of the South Dakota Laws, subject to certain, as amended, exceptions.
3. Sales Tax Ordinance. The City Council has adopted Ordinance #6-102 and #6-103, which imposes a two percent non ad valorem tax, which constitutes the City's effective Sales Tax Ordinance (the "Sales Tax Ordinance"). The Sales Tax Ordinance has been duly adopted pursuant to the Act and effectively and validly imposes the sales and use tax within the City, such tax being hereinafter referred to as the "Sales Tax".
4. Cost of the Project. The cost of the Project is approximately \$536,000. The City proposes to finance approximately \$536,000 of the Project through the issuance of the 2018 Borrower Bond

(the "Bond"). The Bond shall be payable out of collections of the Sales Tax as is necessary to pay principal, premium and interest on the Bond (the "Pledged Tax").

5. Findings. The City Council hereby finds and determines as follows:
  - 5.1. The Project constitutes capital improvements which qualify for the financing under and pursuant to SDCL Chapter 10-52, and the Sales Tax Ordinance; and
  - 5.2. The Borrower Bond authorized hereby is being issued to pay costs of the Project which have not been incurred or paid as of the date hereof and/or which the City has heretofore declared its intention to finance with bond proceeds and for which the City has no other available means or source of financing.
  - 5.3. It is in the best interests of the City to authorize the borrowing of funds to pay a portion of the costs of the Project by authorizing and issuing its Borrower Bond, consistent with the terms approved hereby for an aggregate sum not in excess of the amount of \$536,000.
6. Sale of Bond. It is hereby determined to be necessary and in the best interests of the City and its inhabitants that this City Council authorize, issue and sell the Bond in order to finance a portion of the cost of the Project. The Mayor and Finance Officer are authorized to take such action as is necessary to close the loan with the South Dakota Conservancy District (the "District") upon such terms and conditions as the District may require. The Mayor and Finance Officer are authorized to execute the Borrower Bond and Loan Agreement approved by the District.
7. Approval of the Loan, the Form of Borrower Bond and Loan Agreement. The City does hereby approve the Loan from the District, the form of the Borrower Bond and Loan Agreement. The Form of the Borrower Bond and Loan Agreement which are subject to modification are on file with the Finance Officer and open to public inspection. The Mayor and Finance Officer are authorized to execute a Borrower Bond and Loan Agreement in a form approved by the District.
8. Terms of Bond.
  - 8.1. Date, Amount, Maturities and Interest Rates. The City Council hereby authorizes the issuance of the Bond. The Bond shall be dated in 2018. The principal amount of the Bond shall not exceed any statutory or constitutional debt limitation. The Bond shall have maturities and interest rates as negotiated by the Mayor and Finance Officer.
  - 8.2. Registration. The City hereby appoints U.S. Bank National Association as registrar and transfer agent (the "Registrar") for the Bond. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:
    - 8.2.1.1. Register. The Registrar shall keep at its office a register (the "Register") in which the Registrar shall provide for the registration of ownership of the Bond and the registration of transfers and exchanges of the Bond entitled to be registered, transferred or exchanged.
    - 8.2.1.2. Transfer of Bond. When the Bond is surrendered for transfer it shall be duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer in form satisfactory to the Registrar; duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner thereof. If the Bond is properly surrendered as provided above, the Registrar shall authenticate and deliver, in the name of the designated transferee, a new Bond of a like aggregate principal amount and maturity. The Registrar may, however, close the books for registration of any transfer after the

fifteenth day of the month preceding each interest payment date and until such interest payment date.

8.2.1.3. Exchange of Bond. Whenever the Bond is surrendered by the registered owner for exchange the Registrar shall authenticate and deliver the new Bond of a like aggregate principal amount and maturity, as required by the registered owner or the owner's attorney in writing.

8.2.1.4. Cancellation. The Bond surrendered upon any transfer or exchange shall be promptly canceled by the Registrar and thereafter disposed of as directed by the City.

8.2.1.5. Improper or Unauthorized Transfer. When the Bond is presented the Registrar may refuse to transfer the same until satisfied that the endorsement on such Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfer which, in their judgment, are deemed improper or unauthorized.

Persons Deemed Owners. The City , Paying Agent and Registrar may treat the person whose name any Bond is at any time registered in the Register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

8.2.1.6. Taxes, Fees and Charges. For every transfer or exchange of Bond, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

8.2.1.7. Mutilated, Lost, Stolen or Destroyed Bond. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory that such Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to the Registrar, in which the City and the Registrar shall be named as obligees. The Bond so surrendered to the Registrar shall be canceled by him and evidence of such cancellation shall be given to the City. If the mutilated, destroyed, stolen or lost certificate has already matured or has been called for redemption in accordance with its terms it shall not be necessary to issue a new Bond prior to payment.

- 8.3. Preparation and Delivery. The Bond shall be prepared under the direction of the Finance Officer and shall be executed on behalf of the City by the facsimile or manual signatures of the Mayor and the Finance Officer and countersigned by the facsimile or manual signature of an attorney actually residing in the State of South Dakota and duly licensed to practice therein.
- 8.4. Security Provisions; Funds and Accounts and Other Covenants and Determinations.
- 8.4.1. Clean Water Borrower Bond Fund 2018. The Finance Officer is hereby authorized and directed to establish and shall maintain the Clean Water Borrower Bond Fund 2018 as a separate and special fund in the financial records of the City until the Bond issued and made payable therefrom, and interest due thereon, have been duly paid or discharged. All collections of the Pledged Tax, as hereinafter defined, shall be credited, as received, to the Clean Water Borrower Bond Fund 2018. Within the Clean Water Borrower Bond Fund 2018 are various separate accounts to be maintained by the City.
- 8.4.2. Pledged Tax. Pursuant to the Act and the Sales Tax Ordinance, the City has levied the Sales Tax on the sale, use, storage and consumption of items taxes under Section 10-45 and 10-46 of South Dakota Codified Laws, subject to certain exceptions. The proceeds of the Pledged Tax are irrevocably pledged and appropriated and amounts sufficient to pay the principal of and interest on the Outstanding Bond as the same become due shall be deposited to the Clean Water Borrower Bond Fund 2018. For purposes of this Resolution, "Outstanding Bond" shall mean the Bond and any parity lien Bond hereafter issued pursuant to this Resolution. The Pledged Tax and the Clean Water Borrower Bond Fund 2018 shall be used and applied only in the manner and order hereinafter set forth.
- 8.4.3. Construction Account. There is hereby created and established as an account of the Clean Water Borrower Bond Fund 2018, a "Construction Account". There shall be credited to the Construction Account the proceeds from the sale of the Bond remaining after payment of the expenses of issuing the Bond. All moneys credited to the Construction Account shall be applied solely to the payment of the costs of the Project. For the purposes of this Resolution, "costs of the Project" shall include costs of acquiring, construction, and installing the Project including cost of labor, services, materials and supplies, financial, architectural, engineering, legal, accounting and other professional expenses relating to the Project, the costs of acquisition or properties, rights, easements, or other interest in properties, insurance premiums, and the costs of publishing, posting or mailing notices in connection with the Project. All sums derived from the investment of moneys in the Construction Account shall remain in and become part of such account. Upon completion of the Project and when all costs of the Project have been paid, any balance remaining in the Construction Account shall be credited to the Principal and Interest Account hereinafter established.
- 8.4.4. Principal and Interest Account. There is hereby created and established as an account of the Clean Water Borrower Bond Fund 2018, a "Principal and Interest Account." Immediately upon delivery of the Bond, there shall be credited to the Principal and Interest Account the amount of any accrued interest received from the Purchaser. Commencing on the first day of the month following the month in which the Bond is delivered to the Purchaser, there shall be withdrawn from the Clean Water Borrower Bond Fund 2018, at



least monthly and credited to the Principal and Interest Account an amount which will equal at least one-third (1/3) of the principal, interest and administrative surcharge becoming due on the next succeeding interest payment date with respect to the Outstanding Bond issued. In all events there shall be credited to the Principal and Interest Account amounts sufficient to pay the principal of and interest on the Outstanding Bond as the same become due.

- 8.4.5. Subordinate Lien Bond. After making the above-required payments, any remaining Pledged Tax shall be used for the payment of the principal of and interest on any additional sales tax revenue bonds having a lien which is on a parity to or subordinate to the lien of the Outstanding Bond, and for a reserve fund as additional security for the payment of such subordinate lien Bond.
  - 8.4.6. Inter-fund Transfer. So long as the revenues from the Pledged Tax are sufficient to make all required deposits to the Principal and Interest Account, the City may deposit the excess revenues from the Pledged Tax to the general fund or any other City fund as determined by the City and as permitted by law.
  - 8.4.7. Deposit and Investment of Funds. The Finance Officer shall cause all moneys pertaining to the Fund 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 separate and apart from all other accounts of the City, so long as 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 Fund as authorized in this Resolution; except that moneys from time to time on hand in the Fund 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, maturing and bearing interest at the times and in the amounts estimated to be required to provide cash when needed for the purposes of the respective accounts. Income received from the deposit or investment of moneys shall be credited to the 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 in that account.
- 8.5. Additional Debt. The Borrower shall not incur any Debt which has a lien on or right to payment from the Pledged Tax which is superior to that of this Loan Agreement and the Borrower Bond. The Borrower may incur Debt which is on a parity with this Loan Agreement and the Borrower Bond under the following conditions:
- 8.5.1. Debt secured by Pledged Tax may be incurred to pay or prepay or defease other Debt secured by Pledged Tax if the maximum annual Debt Service of the new Debt is no greater than that of the Debt being paid, prepaid or defeased.
  - 8.5.2. Debt secured by Pledged Tax may be incurred for any purpose so long as prior to the issuance of such Debt the Borrower has delivered to the Trustee and the District a certificate prepared by a Consultant showing that the Pledged Tax collected for any 12 consecutive months out of the 15 consecutive months immediately preceding the issuance of the proposed Debt was at least equal to 125% of maximum annual Debt Service for all Debt secured by Pledged Tax which will be outstanding immediately after the issuance of the proposed Debt.

- 8.5.3. The Borrower may not, without the written consent of the District, incur any (i) variable rate Debt secured by Pledged Tax or (ii) Debt secured by Pledged Tax the payments of principal of and interest on which in any fiscal year are 150% or more of the payments of principal and interest for any other fiscal year.
- 8.5.4. Nothing herein shall prevent the City from issuing Bonds payable from the Pledged Tax and the Clean Water Borrower Bond Fund 2018 or having a lien thereon which is junior and subordinate to the lien of the Bonds authorized herein.
- 8.6. Covenants of the City. The City hereby irrevocably covenants and agrees with each and every holder of the Bonds that so long as any of the Bonds remain outstanding:
- 8.6.1. It will not amend or repeal the Sales Tax Ordinance relating to the Sales Tax by decreasing the Sales Tax rate or the allocation of revenues thereof to the Clean Water Borrower Bond Fund 2018, or in any way that would adversely affect the amount of Sales Tax revenues which would otherwise be collected and deposited to the Clean Water Borrower Bond Fund 2018. However, nothing shall prevent the City from amending the Sales Tax Ordinance in order to make certain changes in the administration, collection or enforcement of the Sales Tax, provided that such changes would not materially adversely affect the owners of the Bonds.
- 8.6.2. 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 necessary action to collect delinquent payments in accordance with law.
- 8.6.3. 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 any owner of any 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.
- 8.6.4. In the event the Sales Tax of the City is replaced and superseded by the state collected-locally shared sales tax or taxes, or is replaced and superseded in some other manner from other source or sources, the revenues derived by the City from the replacement source or sources, as received by the City shall be appropriated in the same manner as if the City had levied and imposed a sales tax. From and after the date of a replacement, the Outstanding Bonds shall have a first and prior lien, but not necessarily an exclusive lien, upon such replacement revenues to the extent therein specified.
- 8.7. Defeasance. When the Bond issued has been discharged as provided in this section, all pledges, covenants, and other rights granted by this resolution to the registered owners of the Bond shall cease. The City may discharge its obligations with respect to any Bond which is due on any date by providing to the Paying Agent on or before that date a sum sufficient for the payment thereof in full; or, if the any Bond should not be paid when due, it may nevertheless be discharged by providing to the Paying Agent a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also discharge its liability with reference to all Bonds which are called for redemption on any date in accordance with their terms by depositing funds with the Paying Agent on or before that date in accordance with their terms by depositing funds with the Paying Agent on or before that date, in an amount equal to

the principal, interest, and premium, if any, which are then due thereon, provided that notice of such redemption has been duly given. The City may also at any time discharge this issue of Bonds in its entirety, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or United States government obligations which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required to provide funds (without an reinvestment) sufficient to pay all principal, interest and premiums, if any, to become due on all Bonds on and before maturity, or, if a Bond has been duly called for redemption, on or before the designated redemption date.

8.8. Tax Matters; Certification of Proceedings and Miscellaneous.

8.8.1. Tax Matters. The City covenants and agrees with the registered owners from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bond to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Bond will not become subject to taxation under the Code and the Regulations. The City will cause to be filed with the Secretary of Treasury an information reporting statement in the form and at the time prescribed by the Code.

8.8.2. The Mayor and Finance Officer, being the officers of the City charged with the responsibility for issuing the Bond pursuant to this resolution, are authorized and directed to execute and deliver to the purchaser thereof a certificate in accordance with the provisions of Section 148 of the Code and Sections 1.103-13, 1.103-14 and 1.103-15 of the Regulations, stating the facts estimates and circumstances in existence on the date of issue and delivery of the Bond which make it reasonable to expect that the proceeds of the Bond will not be used in a manner that would cause the Bond to be arbitrage bonds within the meaning of the Code and Regulations.

8.8.3. The City recognizes its obligation to comply with the provisions of Section 148(f) of the Code relating to the rebate of certain amounts to the United States, and covenants that it will take or refrain from any actions, the result of which would be to cause the interest on the Bond to become subject to federal income taxation as a result of the failure to comply with Section 148(f) of the Code and applicable Treasury Regulations. The City will take all actions necessary to comply with the rebate requirement, including making or causing to be made the computations of rebate or penalty amounts. The City will make any payments of rebate or penalty amounts, and will pay the costs of computing any such rebate or penalty amounts.

8.8.4. It is hereby determined that the Bond is not and will not be "private activity bonds" as defined in Section 141(a) of the Code, and in support of such conclusion the City Council covenants, represents, and certifies as follows:

8.8.4.1. none of the proceeds of the Bond will be used, directly or indirectly, or will be used to replace funds which were used, in any trade or business carried on by any person other than a state or local governmental unit;

- 8.8.4.2. no direct or indirect payments of the principal of or interest on the Bond will be derived from payments (whether or not to the City), in respect of property, or borrowed money, used or to be used for a private business use by any person other than a state or local governmental unit;
  - 8.8.4.3. none of the proceeds of the Bond are to be used directly or indirectly, to make or finance loans to persons other than a state or local governmental unit; and
  - 8.8.4.4. no user of any facilities or improvements financed with the proceeds of the Bond will use the same on any basis other than the same basis as the general public; and no person other than the City will be a user of said, facilities as a result of (i) ownership; (ii) actual or beneficial use pursuant to a lease or a management or incentive payment contract; or (iii) any other arrangement.
- 8.8.5. The City reasonably anticipates that the amount of tax exempt obligations which will be issued by the City and all entities subordinate to, or treated as one issuer with, the City during calendar year 2018 will not exceed \$10,000,000. The Bond is hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. The City does not reasonably expect that it or any subordinate entity will issue, and will not request any other governmental entity to issue on its behalf, in calendar year 2018, more than \$10,000,000 of obligations which it or any such entity could designate as "qualified tax-exempt obligations".
- 8.8.6. The City agrees to comply with all provisions of the Code, which if not complied with by the City, would cause the interest on the Bond not to be tax-exempt in the hands of a holder who is a natural person, including, if determined to be necessary upon advice of bond counsel, the payment of any rebate amount necessary to preserve such tax exemption pursuant to Section 148 of the Code. The City further agrees: (1) through its officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (2) to consult with bond counsel and to comply with such advice as may be given; (3) to file such forms, statements, and supporting documents as may be required and to do so in a timely manner; and (4) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the City in such compliance.
9. Certification of Proceedings. The officers of the City are authorized and directed to prepare and furnish to the purchaser of the Bond certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bond and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bond as such facts appear from the officer's books and records or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Adopted at Philip, South Dakota, this 2<sup>nd</sup> day of April 2018.

APPROVED:

(SEAL)

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer

Adopted: April 2, 2018

Published: April 12, 2018

Effective: May 3, 2018

**EXHIBIT A  
DESCRIPTION OF THE PROJECT**

City of Philip Southwest Storm Sewer System Improvements Project. The existing storm sewer system in the southwest portion of Philip is at the end of its useful life. The city will need to replace all the existing curb and gutter in the southwest portion of Philip. The replacement would include 5,350 linear feet and 157 yards of concrete valley gutter along with 1,915 linear feet of underground RCP storm sewer pipe.

Motion was then made by Miller, seconded by Gartner to approve the following Resolution #2018-10 as presented. Motion carried with all members voting aye.

**RESOLUTION NO. 2018-10**

**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 Philip (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 Philip Southwest Wastewater System Improvements Project.

“**Revenue Bond**” means the revenue bond or bonds issued the date of the Loan Agreement by the City to the South Dakota Conservancy District to evidence the City’s obligation to repay the principal 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. Declaration of Necessity.** The City hereby determines and declares it is necessary to construct and finance improvements to its System described as the Project.

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

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

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

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

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

**3.1. Authorization of Loan.** The City hereby determines and declares it necessary to finance up to \$605,000 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 \$605,000 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 of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the Project or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the Project, and depreciation, and the Rate Resolution shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

improvements bonds or other obligations payable from other funds, except as provided in this Section.

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

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

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

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

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

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

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

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

**SECTION 11. Depositories.** The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be

withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

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

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

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

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

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

Adopted at Philip, South Dakota, this 2<sup>nd</sup> day of April 2018.

APPROVED:

(SEAL)

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, City Finance Officer

Approved: April 2, 2018

Published: April 12, 2018

Effective: May 3, 2018

Council was informed that the Community Development Block Grant (CDBG) grant agreement has been submitted.

Motion was made by Henrie, seconded by Miller to approve the Agreement with Central SD Enhancement District (CSDED) for Administrative Assistance with the CDBG grant at a cost of \$21,000. These fees are included as part of the \$765,000 CDBG grant award. Motion carried.

McCormick then inquired about establishing a construction schedule and completion date for the project. He mentioned that in visiting with contractors, those in the Pierre and Rapid City regions are needing work this summer while those east river have full schedules until 2019. He suggested the following options which in the end will depend on the bid date: (1) complete all of the construction in 2018; (2) split the construction between 2018 and 2019 per the construction phases; (3) allow the contractor to set the start time with completion in 2019, prior to the CDBG deadline—contractor would be required to supply an asphalt cover at his/her expense should anything be exposed over the winter.

Discussion ensued. It was noted that bidding the project in the fall would allow the contractor to start immediately in the spring. A concern for spreading out the construction over the winter was also mentioned. Positive comments for option 3 above were also stated as it would give the contractor more flexibility with the schedule and may provide the best prices.

McCormick again mentioned that if the City changes the street width, the project won't be able to go to bid until later on. In addition, if the bids were to come in under the budget, SD DENR still may not fund the additional street width. They may or may not consider this as an eligible sanitary or storm sewer expense. For instance, SD DENR has been known to not fund all of the street surface—only that over the sanitary sewer trench drain.

Following review, motion was made by Pinney, seconded by Gartner to authorize a 2019 completion deadline (prior to the CDBG deadline) with the stipulation that the contractor must supply a temporary street surface at their expense if anything is disturbed during the winter. Motion carried.

McCormick went on to explain that he had also initially wanted to set the bid date this evening as well as request the funding agencies to speed up the review of the project plans. Considering that the design of the street width may be changed, he would recommend waiting until the April 9<sup>th</sup> special meeting. In addition, he will be in contact with SD DENR prior to that meeting to determine if they will consider funding the additional street width.

By general consensus of the Council, the bid date and engineering contract with SPN & Associates for bidding and construction services for the project will be considered during the April 9<sup>th</sup> special meeting.

Sunshine Drive Overlay Project:

At 7:20 p.m., as previously advertised, a public hearing was held on the Proposed Resolution of Necessity for the project.

Mayor Vetter asked for any comments for or against the resolution as proposed.

With none forthcoming, motion was made by Matt, seconded by Miller to approve the following Resolution #2018-06 as presented below. Motion carried with all members voting aye.

**RESOLUTION #2018-11  
RESOLUTION OF NECESSITY**

**WHEREAS**, the City of Philip, South Dakota, has proposed a resolution of necessity; and,

**WHEREAS**, the City of Philip, South Dakota, has published and mailed said notices as required by South Dakota Codified Laws; and,

**WHEREAS**, the City is ready to proceed with the project and again declares the necessity to make the improvements.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Philip, South Dakota, at a regular meeting thereof, held in the Community Room, located on first floor of the Haakon County Courthouse in the City of Philip at 7:20 p.m. on the 2<sup>nd</sup> day of April 2018, that the convenience and necessity has arisen to improve substantially the following in the City of Philip, Haakon County, South Dakota, by the addition of the curb, gutter and driveway improvements where needed in the Sunshine Drive Overlay Project. Such properties affected being hereinafter named on the attached list marked "Exhibit A" with the projected location being as follows:

City of Philip encompassing all of Sunshine Drive.

**BE IT FURTHER RESOLVED** that the material to be used in the project shall be according to the plans and specifications as prepared by the City's engineering firm, Schmucker, Paul, Nohr and Associates, in and for the City of Philip, South Dakota, and are on file in the office of the City Finance Officer and open for the public's review during regular office hours.

**BE IT FURTHER RESOLVED** that the cost of the curb and gutter improvements shall be assessed against all assessable lots and tracts of land fronting or abutting thereon, according to the provisions of SDCL 9-43-76 as to each of such lots and tracts above stated. The total cost of the improvements shall include the total contract price and shall be assessed according to SDCL 9-43-78. This includes, on a lineal foot basis, **Type B66 Concrete Curb and Gutter** installation at an ESTIMATED construction cost of \$30.00 per lineal foot; on a lineal foot basis, **Type P6 Concrete Gutter** installation at an ESTIMATED construction cost of \$30.00 per lineal foot; on a square footage basis, for **Sidewalk** installation at an ESTIMATED construction cost of \$6.50 per square foot; and, on a square yard basis, for **Residential Concrete Driveway** installation at an ESTIMATED construction cost of \$70.00 per square yard; and, on a square yard basis, for **Driveway Removal on Private Property** at an ESTIMATED construction cost of \$5.00 per square yard;

**BE IT FURTHER RESOLVED** that the City of Philip will cover the expenses for those improvements in the street intersections, removals, gravel base course and engineering.

**BE IT FURTHER RESOLVED** that the City of Philip has established a policy to cover 60% of the eligible assessment costs in order to be consistent with past projects wherein the City was the recipient of grant funds that covered 60% of the eligible costs. The City has determined that the curb and gutter and driveway approach improvements as shown in the Final Plans dated March 2, 2018, are eligible assessment costs subject to the 60% discount. Those costs associated with sidewalks, driveway removal on private property and any additional improvements requested by the property owner will be assessed at 100% of the eligible costs per City policy.

**BE IT FURTHER RESOLVED** that the assessments will be divided into ten (10) equal annual installments, which shall be payable under Plan One, collection by the County Treasurer, as set forth in SDCL 9-43-102, and that all deferred installments shall bear interest at such rate as shall be determined by the City Council.

**BE IT FURTHER RESOLVED**, that the Resolution of Necessity is hereby adopted.

Dated this 2<sup>nd</sup> day of April, 2018.

THE COMMON COUNCIL OF THE CITY OF PHILIP,  
SOUTH DAKOTA

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Monna Van Lint, Finance Officer  
(Published: March 15, 2018)

**“Exhibit A”**

Name	Legal Description	100% TOTAL ESTIMATE D ASSESSED COST	40% TOTAL ESTIMATED ASSESSED COST
Ardis Ladely & Kyla Medley	Lot 1, Blk 1, Stoesser’s Addition, City of Philip	\$0.00	\$0.00
John Hart	Lot 2, Blk 1, Stoesser’s Addition, City of Philip	\$480.00	\$192.00
Kyle Bachand	Lot 3, Blk 1, Stoesser’s Addition, City of Philip	\$0.00	\$0.00
Tate & Marla Guptill	Lot 4, Blk 1, Stoesser’s Addition, City of Philip	\$0.00	\$0.00
Lacy Puhlman	Lot 5, Blk 1, Stoesser’s Addition, City of Philip	\$0.00	\$0.00
Ernest & Debra Clements	Lot 6A, Blk 1, Stoesser’s Addition, City of Philip	\$120.00	\$48.00
Delayne & Carlyn Williams	Lot 6 Blk 1 Stoesser’s Addition, City of Philip	\$0.00	\$0.00
David Burnett & Mary Pfeifer Burnett	Lot 7, Blk 1, Stoesser’s Addition, City of Philip	\$7,500.00	\$3,000.00
Darin Naescher	Lot 8, Blk 1, Stoesser’s Addition, City of Philip	\$2,130.00	\$852.00
John & Jamie Dolezal	Lot 9, Blk 1, Stoesser’s Addition, City of Philip	\$570.00	\$228.00

Ralph & Julianne Kemnitz	Lot 10, Blk 1, Stoeser's Addition, City of Philip	\$930.00	\$372.00
Ralph & Julianne Kemnitz	Lot 11, Blk 1, Stoeser's Addition, City of Philip	\$930.00	\$372.00
Bradley & Jackie Heltzel	Lot 12, Blk 1, Stoeser's Addition, City of Philip	\$960.00	\$384.00
Scott & Stacy Pinney	Lot 13, Blk 1, Stoeser's Addition, City of Philip	\$1,110.00	\$444.00

**\$14,730.00                      \$5,892.00**

The engineering contract with SPN & Associates for bidding and construction services for the project will be considered during the April 9<sup>th</sup> special meeting. It was also noted that this project will be bid with the plan for it to be constructed along with the SW Philip Improv. project.

Elke Baxter addressed the Council with information about a new "Philip Downtown Beautification" project. She mentioned the Community Betterment Committee (CBC) has decided to step down from their flower pot project for the downtown businesses. In turn, the Philip Garden Club and Philip Horizon's has accepted this task and will be selling new planters to the local businesses this year while they will be planted with flowers each spring. The planters will be located next to the businesses so they will not impede with pedestrian traffic. The intent of the project is to "provide curb appeal while making downtown Philip a shopping destination."

Positive comments were mentioned about the beautification project for our downtown area.

Motion was then made by Matt, seconded by Henrie to approve the Philip Garden Club and Philip Horizon's request to place planters on the sidewalks in the downtown area as presented above. Motion carried.

Mayor and Council thanked Ms. Baxter as she left the meeting at this time.

Motion was made by Miller, seconded by Matt to approve the first reading of the following Ordinance #2018-12. Motion carried with all members voting aye.

**ORDINANCE #2018-12  
AMENDING ORDINANCE SECTION 207.1 IN CHAPTER 5 OF THE REVISED  
ORDINANCES OF THE CITY OF PHILIP, SD**

**BE IT ORDAINED** by the City Council of the City of Philip, South Dakota, that the following section 207.1 be amended in Chapter 5, Public Owned Utilities, of the revised ordinances of the City of Philip and read as follows:

**5-207.1      WASTEWATER SURCHARGE**

The City of Philip designates the following as wastewater surcharges and shall be collected as part of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed.

- a) Loan #C461205-05: The City of Philip designates \$6.40 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$750,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of three and one-quarter percent (3.25%), in accordance with the loan agreement to be entered into by the City of Philip and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Wood and Walden Avenue Wastewater Improvements project. Such surcharge shall be segregated from all other funds of the City of Philip, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge of \$8.80 was implemented and reflected with the May 01, 2012, utility billing; and, amended to \$6.40 to be implemented and reflected with the June 01, 2018, utility billing.
  
- b) Loan #C461205-07: The City of Philip designates \$5.80 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$605,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of two and one-half percent (2.5%), in accordance with the loan agreement to be entered into by the City of Philip and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Southwest Philip Wastewater Improvements project. Such surcharge shall be segregated from all other funds of the City of Philip, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge will be implemented and reflected with the June 01, 2018, utility billing.

The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned sewer surcharge charges established by this ordinance through resolution of said City Council.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2018.

ATTEST:

\_\_\_\_\_  
Michael Vetter, Mayor

\_\_\_\_\_  
Monna Van Lint, Finance Officer  
Passed First Reading: Apr. 2, 2018  
Passed Second Reading:  
Yeas:   Nays:  
(Published: Apr. 12, 2018)

Departmental Reports:

The airport report included the following items.

Motion was made by Pinney, seconded by Henrie to authorize soliciting quotes for the installation of a water line and electrical line to the apron by the orange hangar as appropriated in the 2018 budget. Motion carried.



The library report included the review of the Haakon County Library's 2017 annual report.

The monthly police dept. report was reviewed with Chief Butler.

Motion was made by Miller, seconded by Gartner to authorize hiring Brandon Boyd as an additional police officer on the Friday of Scotty Philip Days at \$16.00 per hour plus mileage. Motion carried.

Council went on to review Scotty Philip Days and some recommendations posed by Officer Van Der Linden. This included concerns about the fact that Rock & Roll Lanes did not fully comply with their special events permit last year. In addition, he recommended the Chamber have different colored wristbands for the rodeo and dance.

The quarterly Rubble Site report included a reminder that the summer month's schedule will start on May 1<sup>st</sup>. In addition, the "Spring Clean Up" days will be held on Friday, May 4<sup>th</sup> and Saturday, May 5<sup>th</sup> with pickup day on Monday, May 7<sup>th</sup> (rain date: May 18<sup>th</sup> and 19<sup>th</sup>).

The monthly Street Dept. report was reviewed.

Barry and Edna Knutson addressed the Council with additional information regarding concerns with their 100 N Center Ave. property. More specifically, they are still experiencing a great deal of water in their basement (2 gallons per hour when water is flowing).

Barry Knutson explained that they removed the storm sewer grate and put blue dye directly in the pipe that goes east, directly south of their building. He stated that the dye showed in their basement within 10 minutes. He has contacted Blackburn Basements as their south wall is also wet. He is concerned that a sump pump, as previously offered by the City, is not going to fix the problem—something needs to be done with the storm sewer.

Council Member Gartner reminded them that storm sewer pipes are not sealed tight. There is also a spring northeast of their property.

Edna Knutson questioned what the Council felt was an acceptable amount of water coming in to a basement. She mentioned that after last fall, they thought it was fixed, but unfortunately it is not. In addition, there is not water in any other areas of their basement.

Barry Knutson went on to suggest the Council seriously consider sealing the joint(s) in the storm sewer pipe. It was noted that the City had this line previously televised and that may pinpoint the separated joint. He stated, "I am convinced that storm sewer is the cause."

PWD Reckling advised that A-1 Sewer and Drain had previously provided a quote for a joint seal at \$3,000 (not including mobilization). The other option would be for City personnel to repair the storm sewer pipe, but it may cost more considering that it is located in the curb and gutter.

Vetter voiced concern as the City does not know which joint(s) may be the cause.

Miller suggested that cost estimates be obtained again and if it is the City's storm sewer, something needs to be done.

By general consensus of the Council, the Water/Sewer Committee will continue to look into this matter as previously authorized.

Mayor and Council then thanked the Knutson's as they left the meeting at this time.

Council reviewed a quote from Valley Sweeping for pavement striping along Pine St., from Larimer Ave. to Wood Ave.; and, handicap marking in the downtown area. The estimated cost for this work is \$1,248.99.

Motion was made by Matt, seconded by Miller to approve the above quote presented by Valley Sweeping. Motion carried.

Council then reviewed a quote from Valley Sweeping for crack sealing the following streets:  
-Pine St. from Stanley Ave. to Stewart Ave. - \$9051.48 between the gutter and asphalt; and, \$7516.84 on the asphalt driving area.  
-Scottie Ave., Bennett St., May St. and Bryan St. - \$4054.50 between the gutter and asphalt; and, \$3173.22 on the asphalt driving area.  
-E. Oak St., S. Center Ave. and S. Wood Ave. - \$5049.00 between the gutter and asphalt; and, \$1300.50 on the asphalt driving area.  
Total Cost - \$30,145.54

PWD Reckling advised that the 2018 budget includes \$10,000 for street striping and crack sealing. He then recommended that only those cracks in the driving areas be sealed. This will reduce the amount to \$11,990.56 which unfortunately will still be over budget. He suggested working with the contractor to ensure only the major cracks are sealed which should reduce the costs.

Following, motion was made by Miller, seconded by Henrie to approve the quote from Valley Sweeping to crack seal the above streets, but only in the asphalt driving areas up to the budgeted amount of \$10,000. Motion carried.

Council then when on to discuss the future plan for the SD Hwy 73 retaining wall sign that was removed last fall. It was reported that according to Mike West, they have received the backing for the sign to give it more dimension. He has also inquired if the City is interested in putting it back up on the wall or if not, they may have another location for the sign.

Discussion ensued. It was mentioned that adjustments to the sign will need to be made in order to avoid any further damage to the wall. Concerns were also voiced as far as if the sign will now be sticking out--away from the wall. If that is the case, it may pose a harm to the pedestrians considering it has sharp edges.

By general consensus of the Council, the Street Committee will review the sign and report back with their recommendation.

The swimming pool report comprised of scheduling a Health/Rec Committee meeting to review pool personnel applications and polices for the 2018 season. This will take place on Monday, April 30<sup>th</sup> at 4:00 p.m. in the Finance Office.

The quarterly Water Dept. report was not available, but the following items were reviewed.

Council was advised of the new plumbing regulations for hydrants and underground sprinklers. More specifically, it was noted that vacuum breakers are required to be installed on hydrants and underground sprinklers in order to avoid any contamination of the water source.

Training/Travel:

PWD Reckling & Street/Sewer Supt. Coyle will be attending the 2018 Mosquito Workshop, May 1<sup>st</sup> in Rapid City.

**Public Comments:** None.

**In Other Business:**

Council will meet in special session on April 9<sup>th</sup> at 5:00 p.m. in the Community Room of the Haakon Co. Courthouse.

The next regular meeting will be held on Monday, May 7<sup>th</sup> at 7:00 p.m. in the Community Room of the Haakon Co. Courthouse.

With no further business to come before the Council, Mayor Vetter declared the meeting adjourned at 9:11 p.m.

/s/ Michael Vetter, Mayor

ATTEST:

/s/ Brittany Smith, City Administrator

(Published once on April 12, 2018, at approximate cost of \$\_\_\_\_\_)