

## June 13, 2022, Mayville City Council

The Mayville City Council met in regular session on June 13th, 2022, at 6:00 pm in the council chambers with Mayor Bensen presiding and the following Aldermen responding to call of the roll: Carr, O'Brien, Petersen. Absent: Bohnsack, Moen, Gates. Also, in attendance: Gail Olstad, Julie Christianson, Cassie Tostenson, Janell Marmon, Karl Jorgenson. Brandon Smith and Josh Roehrich from Moore Engineering. Lauren Steinhaus from Dakota Natural Gas. Mike Manstrom from Colliers.

Lauren Steinhaus from Dakota Natural Gas came to give an update for Council. He wanted to let Council know about the 4 blocks of Downtown alleys so hopefully he can coordinate with R.J Zavoral & Sons when doing the concrete work in those alleys so the gas lines can already be put in place by the time the concrete is getting poured for the downtown alleys. Dakota Natural Gas is now working in Portland but will be coming back to get anyone else that wants to get hooked up in Mayville. The price will be \$75 until July 1<sup>st</sup> and then the price will increase to \$175.

Carr made a motion to accept the approval agenda on the following items:

1. **January 3, 2022 (Monthly meeting) – Not available**
2. **April 25, 2022, minutes (Tax Equalization meeting)**
3. **April 25, 2022, minutes (Accepting and Awarding Bids)**
4. **May 2, 2022, minutes (Public Hearing Community Facilities Application)**
5. **May 2, 2022, minutes (Monthly meeting) – Not available**
6. **May 9, 2022, minutes (Emergency meeting)**
7. **May 11, 2022, minutes (Update Emergency meeting)**
8. **May 17, 2022, minutes (Update Follow Up Emergency meeting)**
9. **Auditor's Office approvals:** Ma & Pa BBQ is licensed to have a food truck within city limits until May 3, 2023. MayPort Community Club licensed to hold a parade and street dance at Top Hat on June 25, 2022. Top Hat LLC licensed to transfer liquor license to host a street dance during Summerfest until 2L00 June 26, 2022. Up & Away licensed to sell fireworks within city limits from June 27, 2022, to July 5, 2022.
10. **Conferences & Training Opportunities:** Newly Elected Officials Workshop, Thursday, July 14 in Bismarck (Registration opened on April 1, 2022. City Auditor and Board Workshop, Thursday, June 16 Online. Partner Opportunity Exchange – training and grant opportunities – O&M Training in Mayville and other cities, and Safe Streets and Roads for all Grant Programs Mid-September.
11. **NDIRF:** Missed the 2022 Annual Meeting? Highlights provided by CEO Brennan Quintus are available in a short Zoom recording at the NDIRF website.
12. **Official Ballot:** Home Rule Charter Amendment – Ballot question to continue 1% sales tax previously for Mayville State Wellness Center.
13. **Community Options Behavioral Health Services/City Maintenance Sale:** The program exists to help people with different life experiences live individually. For more information visit [www.CommunityOptionsND.com](http://www.CommunityOptionsND.com) or call 1-800-823-2417.

Petersen seconded the motion, motion carried.

### 1.0 Street & Storm Improvement District 2022-1

- 1.1 Status Update
  - 1.1.1 **Contracts for signature**
  - 1.1.2 Working with Colliers on getting financing
  - 1.1.3 Easements executed
  - 1.1.4 **Should the school work be added?**
- 1.2 Schedule Moving Forward
  - 1.2.1 Preconstruction meeting June 21<sup>st</sup> at 1 PM
  - 1.2.2 Contract schedule update
  - 1.2.3 Contractor submittals – schedule, products, etc.
  - 1.2.4 Engineering Construction Contract once schedule is received

- 2.0 Sewer & Water Improvement District 2022-2
  - 2.1 Status Update
    - 2.1.1 Waiting on USDA funding package
    - 2.1.2 PER approved
    - 2.1.3 Plans approved
    - 2.1.4 Easement status
  - 2.2 Schedule Moving Forward
    - 2.2.1 Will post and bid when USDA gives approval
    - 2.2.2 May push completion into next year
- 3.0 Mayville Dam 2
  - 3.1 Met with committee on Tuesday to discuss options
  - 3.2 City is on list for Fish and Wildlife funds
  - 3.3 Waiting on FEMA declaration
- 4.0 Moore and Friends Golf Event July 20<sup>th</sup> in Valley City

**Street & Storm Improvement District 2022-1**

Brandon Smith spoke that there are contracts that will need the mayor’s signature. He also touched on that all easements with MSU have been executed. He asked if the work at the PBJ Elementary should be added? It was valued around \$160,000. The school voted no. The schedule moving forward is set to have the preconstruction meeting on June 21, 2022, at 1 pm at City Hall. The contract schedule start date is set for now is July 5, 2022, with ditching projects, storm & sewer, street/alley projects, city parking lot.

**Sewer & Water Improvement District 2022-2**

Brandon Smith talked about waiting on USDA funding packing. The PER is approved. The plans are approved. They decided that they would need an easement from B & B Family Restaurant to move the water pipe from one side of the building to the other side. The schedule moving forward is to post and bid when USDA gives their approval. It may push completion into next year.

**Mayville Dam 2**

Brandon Smith stated that he had met with committee on Tuesday to discuss options. The City is on the list for Fish and Wildlife funds. The city is waiting on FEMA declaration.

O’Brien made the motion to approve May actual and June 2022 estimated expenses.

19518	ACME Tools	streets	repairs & maint	\$275.23
19519	Aflac	all	insurance	\$505.08
19520	Agassiz Sales	streets	maint/operations	\$502.72
19521	Aramark	all	misc	\$375.67
19522	Argus Dental & Vision	all	insurance	\$259.60
19523	Baker & Taylor	library	books	\$160.87
19524	Bank of North Dakota	Water 17	loan payment	\$2,138.12
19525	Batchelor Business Machines	library	office supplies	\$236.30
19525	Batchelor Business Machines	library	furniture & equipment	\$510.95
19526	Cardmember Services	all	misc	\$1,230.70
19527	Collaborative Summer Library Program	library	Community Serv Project	\$153.05
19528	Consumer Reports	library	periodicals	\$49.00
19529	Countryside Creations	non-dept	misc	\$154.00
19530	Dacotah Paper	all	paper supplies	\$164.61

19531	Dakota Natural Gas	streets	heating	\$108.24
19532	Dakota Natural Gas	fire dept	heating	\$181.11
19533	Drew Petersen	cemetery	monthly contract	\$2,750.00
19534	ECRWD	water treatment	purchase of raw water	\$5,813.63
19535	Farmers Union Oil	streets	propane for forklift	\$25.50
19536	Ferguson Waterworks	water distribution	maint & meters	\$2,707.98
19516	Finley Motors	vector	2022 Honda 4-wheeler	\$10,100.50
19537	Flaten & Johnson	fire dept	2000 truck repair	\$1,453.08
19538	Flaten & Johnson	streets	95 Case Tractor	\$106.22
19539	Gary Winger	cemetery	maint/operations	\$180.00
19540	Goose River Bank	water dist & wastewater	water collection	\$47.22
19541	Grand Forks Utility Billing	water treatment	samples	\$373.00
19542	Great America	all	lease on copier	\$485.34
19543	H.E. Everson	streets	maint/operations	\$84.32
19544	Hawkins	water treatment	chemicals	\$3,595.58
19545	Hub International	streets	liab ins - 2022 ATV	\$21.00
19546	Linde Gas & Equipment Inc	streets	maint/operations	\$49.02
19547	Mathsen Sweeping LLC	streets	maint/operations	\$5,602.50
19548	MayPort Auto & Truck Parts	streets	91 truck	\$192.51
19549	MayPort Farmers Co-op	all	fuel for vehicles	\$876.48
19550	MayPort Hardware Hank	streets	tools & maintenance	\$306.31
19581	Mayville Airport Authority	airport	April's specials rec'd in May	\$138.21
19582	Mayville State University	sales tax	April's rec'd in May	\$17,935.83
19551	MC Decorating	library restoration	repair/maintenance	\$245.90
19552	Midcontinent Communications	all	internet & phones	\$1,097.41
19553	Miller's Fresh Foods	city hall	misc	\$9.68
19554	Miller's Fresh Foods	library	maint/operations	\$17.87
19555	Moen's Excavation & Concrete	cemetery	maint/operations	\$700.00
19583	MPEDC	sales tax	April's rec'd in May	\$6,098.18
19556	ND Dept of Environmental Quality	water distribution	maint/operations	\$13.24
ACH	NDPERS	all	insurance	\$3,710.30
19557	Network Center	all	datta backup	\$262.00
19558	Nilson Brand Law	all	legal issues	\$3,020.00
CREDIT	Northdale Oil			-\$1,355.15
19559	One Call Concepts	water distribution	maint/operations	\$33.80
ACH	OneAmerica	all	retirement	\$2,535.97
19560	Paulson Gravel Service	armory & streets	maint/operations	\$708.00
19562	Polar	auditor	lease on phones	\$60.77
19563	Precision	wastewater treatment	maint/operations	\$28.69
19564	Reliance Standard	all	life insurance	\$159.75
19565	Septic Tank Servicing	streets	maint/operations	\$450.00
19566	Soholt Bakery	city hall	misc	\$74.75
19567	Team Lab	streets	repair/maintenance	\$800.00
19568	The Saturday Evening Post	library	periodicals	\$28.00
19569	Titan Machinery	streets	95 Case Tractor	\$398.49
19570	Traill County Equalization	state aid & sales tax	professional services	\$14,970.00
19517	Traill County Recorder	cemetery	warranty deeds	\$60.00
19571	Traill County Treasurer	sheriff	monthly contract	\$21,169.50
19572	Traill County Tribune	all	printing	\$1,800.72
19573	USPS	library	postage	\$116.00
19574	USPS	water dist & wastewater	postage for water bills	\$276.04
19575	Valley United Co-op	water, ww & streets	chemicals	\$967.81



19576	Verizon	all	cell phones	\$362.27
19577	Veseris	streets	maint/operations	\$1,383.90
19578	VFW	non-dept	misc - new flag	\$50.00
19579	Waste Management	sanitation	garbage & recycling	\$25,296.28
19580	Xcel Energy	all	electricity	\$14,601.25

H2O Deposits refunded
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19561	Peggy Erickson			\$150.00
				<u>\$160,150.90</u>

Carr seconded the motion, motion carried.

Approval of financial reports: March 2022 financials are included for review and approval. Petersen made the motion to accept the financials as presented. O'Brien seconded the motion, motion carried.

Review Calendars: Note: City Offices closed for the following holiday: Independence Day, Monday, July 4, City Election June 14, 7 am to 7 pm; Street & Storm Sewer Preconstruction Meeting June 21, 2022, 1 pm to 4 pm; **City Council Organization meeting, June 28, 2022, 6 pm.** City Council, July 11, 2022, 6 pm rather than July 4, 2022. Carr made the motion to accept the calendars as presented. Petersen seconded the motion, the motion carried. Committee meetings: Admin and Physical Plant committees will meet Tuesday 5 pm, and Wednesday noon respectively, the week preceding the following month Council meeting. Council meetings are the first Monday in the month. Exceptions that arise to these committee and council meeting dates will be reviewed at the monthly City council meeting.

O'Brien made the motion to approve the Auditor's bond.

***Resolution Setting Auditor Bond Limit***

Whereas, The City of Mayville is covered by a blanket bond by the North Dakota state bond fund; and,

Whereas, the North Dakota state bonding fund provides fidelity bond coverage for the city employees and public officials in dealing with public funds; and,


Whereas, the bond is fixed by the city governing body and set by resolution as outlined in NDCC 40-13-02; and,

Whereas, at the June 13th, 2022 regular City Council meeting of the Mayville City Council the current bond limits were reviewed and found to be sufficient.

Now, therefore, be it resolved by the city council of the city of Mayville, North Dakota, that the auditor bond coverage by the state bonding fund in the amount of one million, five hundred fifty one thousand, eight hundred twenty eight dollars (\$1,551,828), has been reviewed and found sufficient.

Dated this 13th, day of June 2022

Attest:   
Gail Olstad, City Auditor

Mayor:   
Steven Benson

Carr seconded the motion and upon a roll call vote the following voted: Yea: Petersen, O'Brien, Carr; Nay: Zero; Absent: Moen, Gates, Bohnsack.

**Temporary Refunding Improvement Bonds, Series 2022:** Total financing \$20,630,000. Due 08/01/2025. O'Brien made the motion to approve the temporary funding for the street and sewer project. Carr seconded the motion and upon a roll call vote the following voted: Yea: O'Brien, Carr, Petersen; Nay: Zero; Absent: Gates, Bohnsack, Moen.

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**RESOLUTION AUTHORIZING THE ISSUANCE OF  
TEMPORARY IMPROVEMENT WARRANTS AND EXCHANGING THEM FOR  
TEMPORARY REFUNDING IMPROVEMENT  
BONDS, SERIES 2022  
(PARAMETERS RESOLUTION)**

**of the**

**CITY OF MAYVILLE, NORTH DAKOTA**

**Adopted: June 13, 2022**

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This instrument was drafted by:

Ohnstad Twichell, P.C.  
P.O. Box 458  
West Fargo, ND 58078-0458

Member O'Brien introduced the following resolution and moved its adoption:

RESOLUTION AUTHORIZING THE ISSUANCE OF  
TEMPORARY IMPROVEMENT WARRANTS AND EXCHANGING THEM FOR  
TEMPORARY REFUNDING IMPROVEMENT BONDS,  
SERIES 2022  
(PARAMETERS RESOLUTION)

WHEREAS, the City of Mayville, North Dakota (the "Issuer"), has previously created improvement districts as set out in this Resolution for the purpose of constructing municipal improvements (the "Improvements"); and

WHEREAS, to finance such Improvements, the Issuer will issue one or more temporary improvement warrants (the "Warrants") and will levy assessments on the property in the improvement districts benefitted by the Improvements to pay for the Warrants; and

WHEREAS, pursuant to Chapter 40-27 of the North Dakota Century Code, the Issuer will immediately exchange the Warrants for its Temporary Refunding Improvement Bonds, Series 2022 (the "Bonds"); and

WHEREAS, the Governing Body does hereby create a Pricing Committee composed of the Mayor and City Auditor and grant them the authority to accept the bid of Colliers Securities LLC (the "Underwriter") to purchase the Bonds; and

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Mayville, North Dakota, as follows:

Section 1.     Legal Authorization.

1.01. The Issuer has duly created (i) Street and Storm Improvement District No. 2022-1; and (ii) Sewer and Water Improvement District No. 2022-2 (collectively, the "Districts"), and has duly ordered, received and approved engineer's reports and the estimates of the cost of the Issuer's portion of the acquisition, construction, improvement, and development of the Improvements which will be of special benefit to the properties in the Districts. It is determined that the total benefits which will result from the improvement to properties within the Districts will be not less than the cost thereof to the Issuer. It is now necessary for the Issuer to borrow the estimated construction sum for the construction and installation of the Improvements in the Districts in anticipation of the Issuer in the future (a) issuing long-term refunding improvement bonds (the "Definitive Bonds") or additional temporary bonds, (b) assessing and collecting special assessments to be levied for the Improvements, and (c) incurring one or more loans (the "USDA-RD Loans") to be made by the United States Department of Agriculture, acting through the United States Department of Agriculture - Rural Development, as administered on behalf of the Rural Utilities Services ("USDA-RD"). All acts, conditions, and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen, and to be performed preliminary to the issuance and sale of the Bonds authorized herein have been done, do exist, have happened, and have been performed as so required.

Section 2. Not to Exceed

2.01. The Pricing Committee is hereby authorized to complete the following Resolution in substantially the same form as presented, provided the maximum par amount of the Bonds does not exceed \$22,000,000 and the maximum net interest costs on the Bonds do not exceed 4.90%.

Section 3. Authorization and Sale.

3.01. There is hereby authorized to be issued one or more series of Bonds to be designated the Issuer's Temporary Refunding Improvement Bonds, Series 2022. The Pricing Committee shall have the authority to negotiate the terms of the Bonds with the Underwriter, in accordance with Section 2 hereof, to determine the final par amount and amortization schedule for the Bonds without further action of the governing body of the Issuer (the "Governing Body"), and to complete the Certificate of Pricing Committee.

3.02. The Bond Purchase Agreement to be dated the date of sale of the Bonds with the underwriter (the "Bond Purchase Agreement"), substantially in the form presented at this meeting, is hereby approved. The Bond Purchase Agreement is authorized to be executed in the name of the Issuer by the Mayor and the City Auditor, at such time, if any, as they deem appropriate, or executed to or attested to by other officers of the Issuer, in substantially the form on file, but with all such changes therein, not inconsistent with the applicable law, as may be approved by the officers executing the same, which approval shall be conclusively evidenced by execution thereof. In the event that the Mayor or the City Auditor is not available to execute the Bond Purchase Agreement, then any other authorized officer of the Issuer is authorized to execute the Bond Purchase Agreement in the absence of such officer.

Section 4. Covenant to Complete Levy of Special Assessments.

4.01. The Issuer hereby covenants and agrees with the holders from time to time of all Bonds herein authorized or referred to, that it will do and perform all acts and things necessary for the completion of the Improvements and for the valid and final levy of special assessments upon all properties within the Districts identified in Section 5.01 to be benefitted by the Improvements, in an aggregate amount equal to Issuer's portion of the cost of said Improvements, which special assessments shall be payable as the Governing Body shall determine in accordance with law to be collectible for a period of years commencing not later than 2023, with interest on installments thereof from time to time remaining unpaid at a rate determined by the Governing Body in accordance with the North Dakota Century Code, as amended, and that should any of such special assessments be at any time determined to be invalid or unenforceable for any reason, it will take all such further actions and proceedings as may be required by law to make such assessment a valid and binding lien upon the properties in the Districts.

Section 5. The Districts.

5.01. Each Warrant shall bear interest from the date of issue until paid at a rate not to exceed 1.5% higher than the interest rate of the Bonds as set forth on the Certificate of Pricing Committee. Interest is payable semi-annually on each February 1 and August 1, commencing February 1, 2023. Each Warrant shall be exchanged for the Bonds at closing. The principal of and interest on each Warrant shall be payable at the office of the City Auditor. Each Warrant shall be in the principal amounts set forth on the Certificate of Pricing Committee. The following Districts have been established to pay for the Warrants.

<u>District Designation</u>	<u>Years Levied</u>	<u>Years Collected</u>
Street and Storm Improvement District No. 2022-1	2022-2024	2023-2025
Sewer and Water Improvement District No. 2022-2	2022-2024	2023-2025

5.02. Each Warrant shall be typewritten and photocopied in substantially the form attached hereto as Attachment B.

Section 6. Definitive Bonds.

6.01. In anticipation of the collection of the special assessments to be levied for the payment of the cost of the Improvements financed by the issuance of the Warrants drawn on the 2022 Temporary Improvement Warrant Fund, the Issuer hereby authorizes and directs the issuance of Definitive Improvement Warrants in the aggregate principal amount set forth on the Certificate of Pricing Committee for the Districts, less such sums, including but not limited to funds on hand, if any, as shall be received, appropriated and applied to the payment of such cost prior to the issuance of such Definitive Bonds, from prepaid special assessments or from any other source. Issuer further covenants and agrees that all or a portion of the Definitive Improvement Warrants shall be exchanged for (i) additional temporary bonds, (ii) Definitive Bonds, or (iii) one or more USDA-RD Loan, which shall be so issued or incurred **prior** to the final maturity of the Bonds in an amount at least sufficient in the aggregate, with any other moneys then on hand in the 2022 Temporary Improvement Warrant Fund, to pay the Bonds and interest thereon on such maturity date.

Section 7. Form of Bond.

7.01. The Bonds shall be printed in substantially the form set forth in Attachment A to this Resolution.

Section 8. Bond Terms, Execution, and Delivery.

8.01. The Bonds shall be designated Temporary Refunding Improvement Bonds, Series 2022, dated their date of issuance, shall be in registered form, in the denomination of \$5,000 or any integral multiple thereof, and shall mature on August 1, 2025, and shall bear interest at the rates set forth in the



Certificate of Pricing Committee. Interest on the Bonds shall be payable semiannually on each February 1 and August 1, commencing February 1, 2023.

8.02. The Bonds are subject to optional redemption at the option of the Issuer by prepayment on August 1, 2023, or on such alternative date as set forth on the Certificate of Pricing Committee, and on any date thereafter, at a price equal to the principal amount plus accrued interest to the date of redemption, without premium. Redemption of the Bonds may be in whole or in part, and if in part, at the option of the Issuer and in such manner as the Issuer shall determine and within a maturity by lot as selected by the Bond Registrar. Not less than twenty (20) calendar days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent, and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Bond Registrar.

8.03. Interest on the Bonds and, upon presentation and surrender thereof, the principal thereof shall be payable in lawful money of the United States of America by check or draft by Starion Bond Services, as Paying Agent, or its successor.

8.04. The Bond is transferable upon the books of the Issuer at the principal office of the Bond Registrar, Starion Bond Services, or its designee, by the registered owner thereof, in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the Issuer will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee, or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Bonds shall be required to be made during the fifteen (15) days next preceding an interest payment date, nor during the forty five (45) days next preceding the date fixed for redemption of such Bonds.

The Issuer and the Bond Registrar may deem and treat the person in whose name any Bond is registered as the absolute owner thereof, whether the Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the Issuer nor the Bond Registrar shall be affected by any notice to the contrary.

8.05. The Bonds shall be prepared under the supervision and at the direction of the City Auditor, executed by the manual signature of the Mayor and attested to by the manual signature of the City Auditor and delivered to the holder at closing upon receipt of the purchase price plus any accrued interest. The Bonds shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this Resolution until the Certificate of Authentication thereon shall have been executed by the Bond Registrar by manual signature of one of its authorized representatives.

## Section 9. Funds.

9.01. The Bonds are issued in anticipation of (i) additional temporary bonds, (ii) Definitive Bonds, or (iii) one or more USDA-RD Loan and the receipt of special assessments as set forth in Section 5.01 of this Resolution, which special assessments will be levied to fund Improvements in the Districts. There is hereby created a special fund designated as the "2022 Temporary Improvement Warrant Fund" (the "Fund") to be administered and maintained by the Issuer as a bookkeeping account separate and

distinct from all other funds maintained in the official financial records of the Issuer. The Fund shall be maintained in the manner herein specified until all of the Bonds and the interest thereon have been fully paid. Within the Fund, the Issuer shall maintain the following two (2) separate accounts.

9.02. The Issuer shall establish and maintain a Construction Account as a separate account in the Fund to be used for the payment of costs of the Improvements. The Issuer will establish subaccounts within the Construction Account for each District. Such Construction Account shall be used only to pay costs and expenses which under accepted accounting practices constitute capital costs necessarily incurred in the construction of the Improvements, including but not limited to structures, equipment, and the cost of all engineering, legal and other professional services incidental thereto, including the cost of issuance associated with the Bonds. To each subaccount shall be credited all proceeds of the Bonds, except costs of issuance, capitalized interest, and accrued interest, if any, which shall be deposited directly into the Principal and Interest Account. All costs and expenses of the Improvements shall be paid from the applicable District subaccount within the Construction Account from time to time as incurred and allowed from the Construction Account, and the monies in said Construction Account shall be used for no other purposes; provided, that if upon completion of an Improvement there shall remain any unexpended balance in the applicable District subaccount in the Construction Account, such balance shall be transferred to the Principal and Interest Account.

9.03. A separate Principal and Interest Account is also established in the Fund to be used solely to pay when due the interest on and the principal installments of the Bonds and any additional temporary refunding improvement bond or bonds issued, and after retirement of the Bonds and any additional temporary refunding improvement bonds drawn on the account, the Definitive Improvement Warrants to be issued as herein provided. To this account, the Issuer irrevocably appropriates:

- (a) Capitalized interest through the final maturity date of the Bonds.
- (b) The sums representing accrued interest together with any balance remaining in the Construction Account after the Improvements have been completed and accepted and the total cost thereof has been paid.
- (c) All collections of special assessments to be levied on properties within the Districts and interest thereon.
- (d) All collections of taxes levied in the event of a deficiency in the account, as provided in Section 9.06 hereof.
- (e) Construction interest through the final maturity date of the Bonds.
- (f) Any amounts appropriated by the Governing Body for deposit therein.
- (g) The proceeds of (i) additional temporary bonds, (ii) Definitive Bonds, or (iii) one or more USDA-RD Loan.

9.04. The Issuer hereby covenants and agrees with the holders from time to time of all Bonds herein authorized or referred to, that it will do and perform all acts and things necessary for the completion of said Improvements and for the valid and final levy of special assessments upon all properties within the Districts to be benefitted by the Improvements, in an aggregate principal amount

equal to the Issuer's portion of the cost of said Improvements, which special assessments shall be payable as the Governing Body shall determine in accordance with law to be collectible for a period of years commencing not later than 2023, with interest on installments thereof from time to time remaining unpaid at a rate determined by the Governing Body in accordance with Section 40-24-19 of the North Dakota Century Code, as amended, and that should any of such special assessments be at any time determined to be invalid or unenforceable for any reason, it will take all such further actions and proceedings as may be required by law to make such assessment a valid and binding lien upon the properties in the Districts.

9.05. In anticipation of the collection of the special assessments to be levied for the payment of the cost of the Improvements financed by the issuance of the temporary refunding improvement bonds drawn on the Fund, the Issuer hereby authorizes and directs the issuance or incurring of (i) additional temporary bonds, (ii) Definitive Bonds, or (iii) one or more USDA-RD Loan on the Principal and Interest Account of the Fund, in the aggregate principal amount required to pay the total cost of the Improvements in the Districts, less such sum, if any, as shall be received, appropriated, and applied to the payment of such cost prior to the issuance or incurring of such (i) additional temporary bonds, (ii) Definitive Bonds, or (iii) one or more USDA-RD Loan, from prepaid special assessments or from any other source. The Issuer further covenants and agrees that said (i) additional temporary bonds, (ii) Definitive Bonds, or (iii) one or more USDA-RD Loan shall be so issued and sold prior to the maturity of the Bonds in an amount at least sufficient, with any other moneys then on hand in the Fund, to pay the Bonds and interest thereon.

9.06. If in any year the balance of the Principal and Interest Account will not be sufficient to pay all principal and interest due on bonds drawn thereon, the Governing Body shall levy a tax upon all taxable property within the corporate limits of the Issuer, in the amount required to pay such deficiency, and shall cause the same to be extended upon the tax list and collected with other taxes in the following year, in accordance with the provisions of Section 40-26-08 of the North Dakota Century Code, and such taxes are appropriated to the Principal and Interest Account.

#### Section 10. Defeasance.

10.01. When all of the Bonds have been discharged as provided in this paragraph, all pledges, covenants, and other rights granted by this Resolution shall cease as to the holders of such Bonds. All Bonds due on any date may be discharged by depositing with the Paying Agent, on or before the date, a sum sufficient for the payment thereof, with interest, in full; and if any Bond should not be paid when due, the same may nevertheless be discharged by depositing with the Paying Agent a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit.

#### Section 11. Covenants and Representations.

11.01. The Issuer hereby covenants to proceed with the construction of the Improvements and to complete construction prior to August 1, 2025.

11.02. The Issuer hereby designates Starion Bond Services as Paying Agent for the Bonds, and Starion Bond Services as Bond Registrar for the Bonds.

11.03. The Issuer covenants and agrees with the holders 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 Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the “Code”), and Regulations, Amended Regulations, and Proposed Regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

Section 12. Certificate of Proceedings.

12.01. The officers of the Issuer and the City Auditor are hereby authorized and directed to prepare and furnish to said purchaser, and to the attorneys approving the legality of said Bonds, certified copies of such proceedings, ordinances, resolutions and records, and all such certificates and affidavits and other instruments as may be required to evidence the legality and marketability of said Bonds, and all certified copies, certificates, affidavits and other instruments so furnished, including any heretofore furnished, shall constitute representations of the Issuer as to the correctness of all facts stated or recited therein.

Section 13. The following terms shall have the following respective meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant or such person’s subrogate.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

“Bonds” shall mean Temporary Refunding Improvement Bonds, Series 2022, of the City of Mayville.

“DTC” shall mean The Depository Trust Company.

“Participants” shall mean those broker-dealers, banks, and other financial institutions for which DTC holds Bonds as securities depository.

“Representation Letter” shall mean the Representation Letter from the Issuer and the Paying Agent and Registrar to DTC, with respect to the Bonds.

Section 14. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of semiannual interest for any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent next day funds to the account of Cede & Co. on the interest payment date for the Bonds at the address indicated in or pursuant to the Representation Letter.

Section 15. The Bonds shall be initially issued in the form of separate single authenticated fully registered Bonds in the amount of each separate stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the registry books of the Issuer kept by the Paying Agent and Bond Registrar in the name of Cede & Co., as nominee of DTC. The Paying Agent, Bond Registrar, and the Issuer may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be

given to registered owners of the Bonds under the Resolution of the Issuer, registering the transfer of Bonds, obtaining any consent or other action to be taken by registered owners of Bonds and for all other purposes whatsoever; and neither the Paying Agent and Bond Registrar nor the Issuer shall be affected by any notice to the contrary. Neither the Paying Agent and Bond Registrar nor the Issuer shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the registration books of the Paying Agent and Bond Registrar as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant; with respect to the payment by DTC or any Participant of any amount in respect of the principal or redemption price of or interest on the Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under the Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of Bonds. The Paying Agent and Bond Registrar shall pay all principal of and premium, if any, and interest on the Bonds only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the Issuer to make payments of principal of and premium, if any, and interest. Upon delivery by DTC to the Paying Agent and Bond Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with Section 20 hereof.

Section 16. In the event the Issuer determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bond certificates, the Issuer may notify DTC and the Paying Agent and Bond Registrar, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event, the Bonds will be transferable in accordance with Section 20 hereof. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Issuer and the Paying Agent and Bond Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with Section 20 hereof.

Section 17. Notwithstanding any other provisions of the Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of and premium, if any, and interest on such Bond and all such notices with respect to such Bond shall be made and given, respectively to DTC as provided in the Representation Letter.

Section 18. In connection with any notice or other communication to be provided to Bondholders by the Issuer or the Paying Agent and Bond Registrar with respect to any consent or other action to be taken by Bondholders, the Issuer or the Paying Agent and Bond Registrar, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible. Notice to DTC shall be given only when DTC is the sole Bondholder.

Section 19. The execution and delivery of the Representation Letter to DTC by the Mayor or City Auditor, in the form presented at this meeting with such changes, omissions, insertions and revisions as the Mayor or City Auditor shall deem advisable is hereby authorized and execution of the Representation Letter by the Mayor or City Auditor shall be conclusive evidence of such approval. The

Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bondholders and payments on the Bonds. The Paying Agent and Bond Registrar is hereby authorized and requested to execute the same and shall have the same rights with respect to its actions thereunder as it has with respect to its actions under the Resolution.

Section 20. In the event that any transfer or exchange of Bonds is permitted under Section 15 or 16 hereof, such transfer or exchange shall be accomplished upon receipt, by the Bond Registrar from the registered owners thereof of the Bonds to be transferred or exchanged, of appropriate instruments of transfer to the permitted transferee. In the event Bond certificates are issued to holders other than Cede & Co., its successor as nominee for DTC as holder of all the Bonds, or other securities depository as holder of all the Bonds, the provisions of the Resolution shall also apply to, among other things, the printing of such certificates and the method of payment of principal of and interest on such certificates.

Section 21. Repealer.

21.01. All prior resolutions and other acts or proceedings of this Governing Body which are in any way inconsistent with the terms of this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

21.02. Nothing herein contained shall be deemed to modify, amend, violate, repudiate, or repeal any provision or covenant contained in any bond, or any resolution pursuant to which any bond has been issued and is outstanding, to the extent that a modification, amendment, violation, repudiation, or repealer would impair the obligation or contract owed to any holders of such bonds or would otherwise be invalid or ineffective.

Section 22. Bonds Not Subject to Acceleration.

22.01. The Bonds are not subject to acceleration in the event of default.

Section 23. Amendment of Resolution.

23.01. This Resolution may be amended without the consent of any Bondholders for one or more of the following purposes:

(a) To add to the covenants and agreements of the Issuer in this Resolution and any other covenants and agreements thereafter to be observed by the Issuer, or to surrender any right or power herein reserved to or conferred upon the Issuer.

(b) To cure any ambiguity or formal defect contained in this Resolution, that cure does not, in the judgment of the Issuer, adversely affect the interests of the Bondholders.

23.02. This Resolution may be amended for any other purpose only upon the consent of not less than fifty percent (50%) of an aggregate principal amount of the Bonds outstanding, provided, however, that no amendment shall be valid which:

(a) Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on the Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Bondholder; or



(b) Reduces the percent of Bondholders required to approve the mandatory resolutions.

Section 24. No Credit Enhancement.

24.01. There is no credit enhancement facility securing the Bonds, nor is there any provision for a credit enhancement facility to be provided to secure the Bonds.

Section 25. Headings.

25.01. Headings in this Resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

Section 26. North Dakota Law Applies.

26.01. This Resolution shall be controlled by the laws of the State of North Dakota, and as a result, any claim, demand, or cause of action arising under the terms of this Resolution shall be brought in an appropriate venue in the State of North Dakota.

Section 27. Not Qualified Tax Exempt Under Section 265.

27.01. The Issuer hereby acknowledges that the Bonds are **not** designated as a qualified tax-exempt obligation within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986.

Section 28. Official Statement.

28.01. The Preliminary Official Statement relating to the Bonds, substantially in the form presented at this meeting, is hereby approved. The officers of the Issuer are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness, and sufficiency of the Official Statement.

Section 29. Continuing Disclosure.


29.01. The City Auditor is hereby authorized to execute, on behalf of the Issuer, the Continuing Disclosure Certificate attached as Attachment C to this Resolution.

Section 30. Electronic Signatures Permitted.

30.01. Electronic signatures to this Resolution shall be as valid as an original signature of Issuer and shall be effective to bind the Issuer to this Resolution. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message.

Section 31. Cost of Issuance.

31.01. The City Auditor is hereby authorized to pay the costs of issuances associated with the Bonds.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by Member Carr, and upon roll call vote, the following voted in favor thereof: Petersen, Carr, O'Brien. The following were absent and not voting: Bohnsack, Gates and Moen, and the following voted against the same: none, whereupon the resolution was declared duly passed and adopted.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by Member Carr, and upon roll call vote, the following voted in favor thereof: Petersen, Carr, O'Brien. The following were absent and not voting: Bohnsack, Gates and Moen, and the following voted against the same: none, whereupon the resolution was declared duly passed and adopted.

Carr made the motion to allow Listen Inc to provide gaming to Heroes & Legends, July 1, 2022 – June 30, 2023. Petersen seconded the motion, the motion carried.

The Fire Department is planning to purchase a 1997 truck to replace the 1962 truck which will be sold. Additional information to be provided. The 1962 truck will have to be sold by bid. Petersen made the motion to approve purchasing the 1997 and selling the 1962 truck by bid. Carr seconded the motion and upon a roll call vote the following voted: Yea: Petersen, Carr, O'Brien; Nay: Zero; Absent: Moen, Bohnsack, Gates.

Carr made the motion to approve selling the following cemetery lots to Richard & Kristine Fastner, Section 4A, NH, Lot 11, graves 3 &4; Lynn Melhus, Section 16, Lot 8, grave 3. Dean & Diana Balstad, Section 16, Lot 34, grave 6. Then to buy back from Dale & Nora Bakkum, Section 4A, SH, Lot 23, graves 3 & 4. Petersen seconded the motion and upon a roll call vote the following voted; Yea: Carr, O'Brien, Petersen; Nay: Zero; Absent: Bohnsack, Gates, Moen.

**Joint Powers Termination:** We have not received a draft contract to replace the JP Agreement. This is tabled for now until we receive something from Joint Powers.

**Budget Preparation:** Input is needed for suggested changes for 2023. Sheriff, Library, Equalization – 18,150 – Contract to sign for City, Increase in Software costs, Fire Department, Other city adjustments? Preliminary budget is due to County Auditor on August 10, 2022.

Nothing for the Sheriff's report

Carr made the motion to adjourn the meeting. Petersen seconded the motion, motion carried.

Attest: Julie Christianson  
Julie Christianson, Deputy Auditor

Mayor: Steve Bensen  
Steve Bensen

O'Brien made the motion to approve the Auditor's bond.

***Resolution Setting Auditor Bond Limit***

Whereas, The City of Mayville is covered by a blanket bond by the North Dakota state bond fund; and,

Whereas, the North Dakota state bonding fund provides fidelity bond coverage for the city employees and public officials in dealing with public funds; and,

Whereas, the bond is fixed by the city governing body and set by resolution as outlined in NDCC 40-13-02; and,

Whereas, at the June 13th, 2022 regular City Council meeting of the Mayville City Council the current bond limits were reviewed and found to be sufficient.

Now, therefore, be it resolved by the city council of the city of Mayville, North Dakota, that the auditor bond coverage by the state bonding fund in the amount of one million, five hundred fifty one thousand, eight hundred twenty eight dollars (\$1,551,828) ,has been reviewed and found sufficient.

Dated this 13th, day of June 2022

Carr seconded the motion and upon a roll call vote the following voted: Yea: Petersen, O'Brien, Carr; Nay: Zero; Absent: Moen, Gates, Bohnsack.

Attest:   
Gail Olstad, City Auditor

Mayor:   
Steven Bensen