

RESOLUTION NO. 2018-26

CITY OF HARRISBURG

A RESOLUTION ADOPTING A SEWER COST RECOVERY AND ASSESSING THE COST OF SUCH COST RECOVERY TO EACH LOT OR TRACT OF LAND BENEFITTING THEREBY.

WHEREAS, City Resolution No. 2008-15, as amended by Resolution 2008-17, adopt by reference a sanitary sewer cost recovery evaluation completed by the City of Harrisburg (the “City”) in June of 2018, which authorizes private developers to be reimbursed by assessment for sewer and related infrastructure costs from the property which benefits from such infrastructure;

WHEREAS, Nielson Development, LLC, has constructed an oversized sewer at a greater depth and size, and otherwise made sewer improvements within the meaning of SDCL 9-48-15 (the “Sewer Construction”) which presently serves the Legendary Estates Addition to the City of Harrisburg, South Dakota, consisting of approximately 126.528 acres;

WHEREAS, the City for purposes of SDCL 9-48-15 has determined that it is appropriate to require that owners of the property served by the Sewer Construction in the future pay their proportionate share of the cost of construction for which Nielson Development, LLC, has not otherwise been reimbursed as of the date of this Resolution, without interest, according to the benefits to accrue to such owner’s property;

WHEREAS, in constructing the Sewer Construction, Nielson Development, LLC, has incurred the additional, unreimbursed cost in the sum of \$127,300.27 in constructing the Sewer Construction, and such amount is eligible for cost recovery;

WHEREAS, upon investigation and information provided by Nielson Development, LLC, the basin which will benefit from the Sewer Construction consists of 458.37 additional acres which are legally described below and identified in the attached Exhibit A:

(Parcel #1) The East Half of the Southeast Quarter (E1/2 SE1/4) of Section 26, Township 100, Range 50 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, Except the South 530 Feet and Except the East 30 Rods of the North 10 2/3 Rods

(Parcel #2) The South Half of the Southwest Quarter (S1/2 SW1/4) and the South Half of the North Half of the Southwest Quarter (S1/2 N1/2 SW1/4); (Except Lot 1, Block 5 of Dynamic Development 1<sup>st</sup> Addition.) all of Section 25, Township 100, Range 50 West of the 5<sup>th</sup> P.M., City of Harrisburg, Lincoln County, South Dakota

(Parcel #3) The Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4), and the West 730 Feet (W730’) of the North 150 Feet (N150’) of the Southwest Quarter of the Northwest Quarter (SW1/4 SW1/4), of Section 36, Township 100

North, Range 50 West of the 5<sup>th</sup> P.M., City of Harrisburg, Lincoln County, South Dakota, According to Government Survey Thereof

(Parcel #4) The South East Quarter (SE1/4), Except Railroad Right of Way, and Except Harris Tracts One (1) and Two (2), all in Section 25, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, According to the Government Survey Thereof

(Parcel #5) Harris Tract 2 in the Southeast Quarter (SE1/4) of Section 25, Township 100 North, Range 5 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, According to the Recorded Plat Thereof

(Parcel #6) The North 272 Feet of Harris Tract 1 in the Southeast Quarter (SE1/4) Section 25, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, According to the Recorded Plat Thereof

(Parcel #7) Harris Tract 1 in the Southeast Quarter (SE1/4) of Section Twenty-Five (25), Township One Hundred (100) North, Range Fifty (50) West, Lincoln County, SD. Less N272' of Harris Tract 1 SE1/4 – 25-100-50 Lot 3.00 AC Harrisburg, S.D. 57032

(Parcel #8) The North Half of the Northeast Quarter (N1/2 NE1/4) of Section 36, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, Except for Railroad Right of Way, and Except Johnson Tract 1 Thereof, and Except Conveyed Subject to an Outstanding Mortgage to Valley Exchange Bank of Lennox, Tea Branch, in Tea, South Dakota

(Parcel #9) The East Half of the Northwest Quarter (E1/2 NW1/4) Section 36, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, According to the Government Survey Thereof

(Parcel #10) Tract 18 of Industrial Park Addition in the Northwest Quarter (NW1/4) of Section 36, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., City of Harrisburg, Lincoln County South Dakota

(Parcel #11) Tract 17 of Industrial Park Addition in the Northwest Quarter of Section 36, Township 100, North, Range 50 West of the 5<sup>th</sup> P.M., City of Harrisburg, Lincoln County, South Dakota

(Parcel #12) Lot 1, Block 5 of Dynamic Development First Addition Located in the South Half of the Southwest Quarter (S1/2 SW1/4) and the South Half of the North Half of the Southwest Quarter (S1/2 N1/2 SW1/4), all of Section 25, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., City of Harrisburg, Lincoln County, South Dakota, According to the Recorded Plat Thereof

(Parcel #13) Johnson Tract 1 in the North Half of the Northeast Quarter (N1/2 NE1/4) of Section 36, Township 100 North, Range 50 West of the 5<sup>th</sup> P.M., Lincoln County, South Dakota, According to the Recorded Plat Thereof

(the “Benefitted Property”); and

WHEREAS, the City of Harrisburg has investigated the matter as necessary and hereby find and determines that the cost recovery amount shall be apportioned as follows:

As a condition for property located outside Legendary Estates Addition to be served by the Sewer Construction, the property requested to be served shall be assessed a cost as follows:  $\$127,330.27 \div 584.90$  (the number of acres proposed to be served including Legendary Estates). The following district, therefore, shall be assessed \$217.70 per acre.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HARRISBURG, SOUTH DAKOTA:

That payment of the costs allocated to the Benefitted Property shall be delayed, without interest, until such time as the Benefitted Property or portion thereof requests connection to the Sewer Construction, at which time the cost recovery applicable thereto would become payable in full.

It is further resolved that a copy of this resolution shall be recorded at the Register of Deeds Office, Lincoln County, South Dakota, as a notice to all potential or actual future landowners that proof of payment is required prior to the time such property shall connect to the Sewer Construction.

This Resolution shall not preclude request for cost recovery by third parties who reimbursed Nielson Development, LLC, on or directly paid for a portion of the costs of the Sewer Construction.

Dated adopted: November 19, 2018

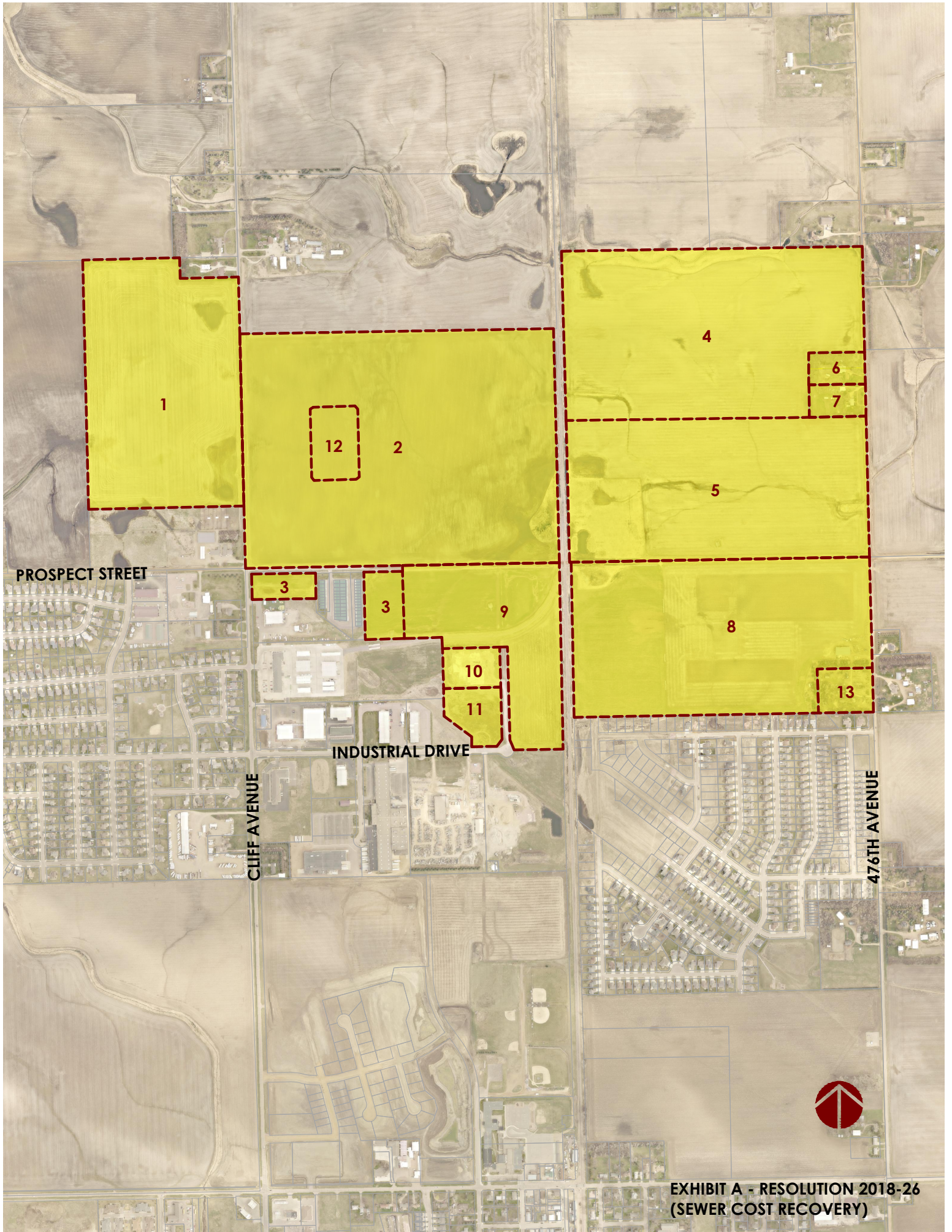
Julie Burke – Van Luvanee  
Mayor

ATTEST:

Mary McClung  
Finance Officer

Adopted: November 19, 2018  
Published: November 29, 2018  
Effective: December 19, 2018





**EXHIBIT A - RESOLUTION 2018-26  
(SEWER COST RECOVERY)**