REGULAR MEETING, November 10, 2008

The Regular Session of the Deadwood City Commission convened on November 10, 2008 at 5:00 p.m. in the Deadwood City Commission Chambers, 102 Sherman Street, Deadwood, South Dakota. Mayor Toscana called the meeting to order with the following members present: Department Heads and Commissioners, Mike Klamm, Joe Peterson, Lenny Schroeder, and Georgeann Silvernail. All motions passed unanimously unless otherwise stated.

APPROVAL OF MINUTES

Silvernail moved, Klamm seconded, to approve the minutes of November 10, 2008. Roll Call: Aye-All. Motion carried.

APPROVAL OF DISBURSEMENTS

Schroeder moved, Klamm seconded, to approve the November 10, 2008 disbursements with additional bill. Roll Call: Aye-All. Motion carried.

A & B WELDING	CREDIT/PER INVOICE ON STATEMNT	55.66
ALLIANCE EQUIPMENT CO., IN	NEW BUCKET-TOOL TRAY/BUCKET TR	988.23
BLACK HILLS CHEMICAL	ULTRA BLEACH CREDIT	1,517.56
BLACK HILLS ELEVATOR, LLP	AUG RAMP ELEVATOR	293.88
BLACK HILLS LAND ANALYSIS	BLACK HILLS LAND ANALYSIS	3,800.00
BLACK HILLS POWER & LIGHT	SPEED SIGN - 101 CHARLES	2,607.43
CAMPBELL, JASON	REIMB TRVL-PIERRE-10/08,10/31	276.02
CARGILL, INC.	BULK CLEARLANE ENHANCED DEICER	2,575.20
CULLIGAN OF THE NORTHERN H	HOT/COLD RENTAL/REC CENTER	76.00
DEADWOOD DEVELOPMENT CO	UPS SHIP FEE-FIREHOSE KNOZZLE	92.21
DEADWOOD ELECTRIC	STREET LIGHT REPAIR/GALLOWS	2,166.86
FORGEY CONSTRUCTION LLC	WILLIAMS ST PANEL REPL./CO #1	5,539.24
FOX, TERESA	INDEXING-MARCH 1-31,1900	1,500.00
GALL'S INC.	S/S POLO SHIRT	35.48
GENES LOCK SHOP	SPINDAL HUB-SERV. CALL-MILEAGE	108.48
GOLDEN WEST TECHNOLOGIES,	DISPLAY PAGER AIR TIME/ST-WTR	624.25
HAUFF MID-AMERICA SPORTS	(5) GIRLS BASKETBALLS/REC CENT	203.75
HILLS MATERIALS COMPANY	SAND FINES FOR SANDING STREETS	1,554.55
HILLSIDE DISPOSAL	TWO ROLL OFF DUMPSTERS/DUMP	660.00
JACOBS PRECISION WELDING	ANGLE-FLAT BAR	30.85
LAWRENCE COUNTY TREASURER	ABAN VEH TITLE -'89 DODGE CVN	5.00
LEAD DEADWOOD SANITARY DIS	LEAD DEADWOOD SANITARY DISTRIC	23,754.64
LIGHTING PLASTICS OF MN, I	GLOBES FOR STREET LIGHTS	10,256.47
MAVERICK ENTERPRISES DBA B	GROCERY/REC CENTER	13.77
MONTANA DAKOTA UTILITIES	NATURAL GAS/GAYVILLE PRV	3,689.54
MORRIS TOWING	DWD IMPOUND-TOYOTA TERCEL	75.00
NEVE'S UNIFORMS, INC.	UNIFORM SHIRTS, PANTS	186.11
NEWMAN TRAFFIC SIGNS	EC FILM - FLAT	95.46
NORTHWEST PIPE FITTINGS, I	5-1/4" VALVE TOP	136.61
PAPOUSEK, DON	TRAVEL REIMB- MITCHELL	53.62
PITNEY BOWES INC	REFILL POSTAGE METER -10/31/08	500.00
PUBLIC SAFETY EQUIPMENT CO	AUTO INTERLOCK	133.51
RAPID DELIVERY	DELIVERY SERVICES/BUTLER CAT	23.40
SCHMIDT CONSTRUCTION	FINISH CURB-GUTTER/BURLINGTON	2,319.00
SD COMMISSION ON GAMING	NOV CITY NICKELS	2,744.31
SOUTH DAKOTA MUNICIPAL LEA	SDML WORK COMP FUND	52,253.00
SOUTH DAKOTA STATE TREASUR	SALES TAX - OCTOBER 2008	3,977.50
SUMMIT SIGNS & SUPPLY, INC	DECAL - 8AM-5PM MON-FRI	14.50
TRIPLE K TIRE & REPAIR	TIRES-LABOR-VALVE STEMS/PA PU	714.72
TWILIGHT FIRST AID & SAFET	EAR PLUGS	37.95
VERSATILE CARPETS INTERIOR	VERSADEK - RAMP ELEVATOR	182.93
	TOTAL	**$125,872.69**

ITEMS FROM CITIZENS ON AGENDA

Department of Legislative Audit - 2007 Audit

Bruce Hintz from S.D. Department of Legislative Audit appeared before the Commission to review the results of the 2007 audit. Hintz explained that the audit is comprised of three sections, which they base their findings on and they are: 1) Internal Control Structure, 2) Violations of Statutes, Contracts, Grants, and Agreements, 3) Audit Adjustments to Financial Statements. He said that due to the new risk based testing procedures and methods used now there were no deficiencies noted with the internal control area, which in the past been a problem due to lack of segregation of duties over revenue. Legislative Audit reclassified $1,858,671 from Cash to Investments, which was only a reclassification entry, and no cash was missing. There were two immaterial violations of State laws and there are: 1) outstanding checks more than one year old were not turned into the State unclaimed property of as required by SDCL 43-41B, and 2) personal property listings were not completed by department heads and filed with the Finance Office as required by SDCL-5-24-1. Hintz added that there were no written comments this year. The audit report must be filed by the end of November due to the City's bond requirements. He added that this would not be a problem and the audit went very well this year. Mayor Toscana thanked Mr. Hintz and signed the representation letter.

Sanford Lab Update

Dr. Jose Alonso, Director of the Sanford Lab, appeared before the Commission to give an update on the Sanford Lab. Alanso said they are continuing to pump water from the mine and have currently

pumped 90 feet of water. They are in the process of installing more pumps to improve the discharge of water. Alonso said that they would like to reach the 4850 level by May 1, 2009, as this is a critical level as far as being able to set up various experiments. Various groups and colleges have contacted the Lab to do seismometer measurements, projects, and an underground observatory. Dr. Alanso said they would continue to come to the Commission meetings on a monthly basis to keep everyone informed as to the progress they are making.

Forest Avenue Residents Request
Rick Wells of 109 Forest Avenue appeared before the Commission to request permission for the Forest Avenue residents to utilize parking spaces in the Broadway Parking Ramp during the winter months. Silvernail moved, Klamm seconded, to allow all Forest Avenue residents to park in the Broadway Parking Ramp during the winter months. Residents must obtain permits from the Police Department. Roll Call: Aye - All. Motion carried.

POLICE/FIRE

Travel Request
Klamm moved, Silvernail seconded, to allow Kip Mau to attend Forensic Interviewing of Children class on November 17-20, 2008 in Pierre, requesting use of a City vehicle. Roll Call: Aye - All. Motion carried.

Phone Vote - 11-4-2008 - Police Department
A phone was taken on Tuesday, November 4, 2008, to allow the Police Department to order and purchase a 2009 Dodge Durango off the 2009 State of South Dakota Vehicle Specification Bid, Contract #15542, from Wegner Auto in Pierre at a cost not to exceed $23,000.00, a budgeted item. Aye: Silvernail, Klamm, Toscana, Schroeder, and Peterson. Aye - All. Motion carried.

PARKS/RECREATION/TROLLEY

Wage Increase
Silvernail moved, Klamm seconded, to approve the wage increase of Dean Schallenkamp from $13.74 to $14.46 per hour, prevailing wage after completion of two years of service, effective November 7, 2008. Roll Call: Aye - All. Motion carried.

LEGAL BUSINESS

Ordinance #1111 - First Reading
City Attorney Jason Campbell informed the Commission that this would be first reading of Ordinance #1111 to amend Chapter 13.12 Section 13.12.060 to increase water rates and add a sewer fee. Toscana said that this Ordinance follows the recommendations made by South Dakota Association of Rural Water and the appointed water committee. Mayor Toscana explained in detail the proposed rate changes that are in Ordinance #1111. Deadwood resident, Rose Widener of 799 Main, appeared before the Commission to discuss residential and commercial water rates. Mayor Toscana reassured Ms. Widener that the residential rate is not more than the commercial rates. After much discussion, the addition to Ordinance #1111 was to become effective on January 1, 2009. Commissioner Schroeder said he struggled with the proposed changes and Commissioner Peterson added that the City would still need to subsidize this account so these rate increases must take place. Peterson moved, Klamm seconded, to approve first reading of Ordinance 1111 to Amend Chapter 13.12 Utility Billing Procedures to Increase Water Rates and Add Sewer Fees for the City of Deadwood. Roll Call: Aye - All. Motion carried.

Resolution 2008-28
Silvernail moved, Klamm seconded, to approve Resolution 2008-28 Adopting Construction Manager at Risk Procedures for Solicitation and Award of Construction Manager at Risk Contracts for the Deadwood Rec Project. Roll Call: Aye- All. Motion carried.

RESOLUTION NO. 2008-28
RESOLUTION ADOPTING CONSTRUCTION MANAGER AT RISK PROCEDURES FOR SOLICITATION AND AWARD OF CONSTRUCTION MANAGER AT RISK CONTRACTS

WHEREAS, the City of Deadwood desires to enter into construction manager at risk contracts under appropriate circumstances; and

WHEREAS, the City of Deadwood is required to establish procedures for the solicitation and award of such contracts prior to entering into such contracts,

NOW, THEREFORE, BE IT RESOLVED by the City of Deadwood that the City hereby declares its procedures for the solicitation and award of construction manager at risk contracts as follows:

CONSTRUCTION MANAGER-AT-RISK SELECTION PROCEDURES

SECTION 1: AUTHORITY

Authority is granted by SDCL 5-18-52.

SECTION 2: POLICY

The City of Deadwood shall select construction manager-at-risk for City capital improvement projects as defined in SDCL 5-14-1, based on criteria contained in this Subchapter and make available to every firm, licensed as a general contractor in the State of South Dakota, the opportunity to be considered for providing construction management-at-risk services for those departments and agencies under its jurisdiction. The construction manager-at-risk shall use a standard form of contract authorized by the City and the construction manager-at-risk.

SECTION 3: DEFINITIONS

For purposes of this subchapter, the following definitions shall apply:

(1) "Capital Projects Coordinator" means the City of Deadwood Public Works Director.

(2) "Construction Manager-at-Risk" means a person, corporation, or entity that provides construction management-at-risk services.

(3) "Construction Management-at-Risk Services" means services provided by a person, corporation, or entity that:
   (a) provides construction management services for a project throughout the preconstruction and construction phases,
   (b) who is licensed as a general contractor, and
   (c) who guarantees the cost of the project.

(4) "First-Tier Subcontractor" means a subcontractor who contracts directly with the Construction Manager-at-Risk.

(5) "Contact person" means the person named in the public advertisement who shall be the Capital Projects Coordinator or his/her designee.

(6) "Funded agency" means the department, agency, authority or office that is named in the legislation appropriating funds for the design and construction project.

(7) "Using agency" means the subdivision of the funded agency for whose use the project is to be provided. If the funded agency is so subdivided for administrative control, the using agency would be a division, geographically self-contained facility, campus or similar body, as determined by the administrative head of the funded agency.

SECTION 4: PROJECT DESCRIPTION

Each Capital Projects Coordinator shall provide the City with a written description of the construction management-at-risk services desired, the program or scope of work, schedule requirements, amount of authorized funds, owner agency responsible for the project, name and contact information of the owner's project representative, link to owner agency's website where RFP and project detail may be obtained, date RFP to be published, closing date, time and location contractor letters of interest are to be submitted and any special licenses, skills, or experience of the contractor not already listed for each project requiring construction management-at-risk services. This information shall be provided to the City for publication on City's website. The Capital Projects Coordinator shall initiate the Construction Manager-at-Risk selection process and shall make his/her best effort to enable the completion of the selection process within 60 days of the date of the above notification.

SECTION 5: PUBLIC ANNOUNCEMENT

(a) Based upon project information furnished by a Capital Projects Coordinator, the City shall publish an announcement of the need for construction management-at-risk services, a designated contact person in the using agency and the closing date on the City's website. This public announcement shall be published prior to Construction Manager-at-Risk selection.

(b) The closing date for being considered for construction management-at-risk services shall be at least 21 days from date of publication on the City's website. Responses (proposals) to Request For Proposal (RFP) for each project must be received by the Capital Project Coordinator prior to a firm's being considered for construction management-at-risk services. Such proposals shall be directly responsive to the RFP detail, set forth by the Capital Projects Coordinator in his/her RFP.

SECTION 6: CONSTRUCTION MANAGER-AT-RISK QUALIFICATIONS

All firms desiring to provide construction management-at-risk services shall submit all information required in the RFP for the public owner's review and evaluation. Firms shall submit evidence of compliance with the requirements of the RFP. Each firm shall meet the requirements of the RFP prior to being considered by the pre-selection committee as one of the firms most qualified to perform construction manager-at-risk services. Failure of any firm to furnish all required information in the RFP shall disqualify the firm from consideration.

SECTION 7: PRE-SELECTION COMMITTEE

A pre-selection committee shall be established for all projects requiring construction management-at-risk services. The pre-selection committee shall consist of at least the capital projects coordinator, a representative of the using agency and one representative from the City. At least one member of all pre-selection committees shall be a registered architect, licensed engineer or licensed contractor. The pre-selection committee shall review the requirements of a specific project and the qualification of all firms expressing interest in that project and shall select from that list not more than six nor less than three firms to be interviewed and evaluated. The pre-selection committee shall interview each of the selected firms, evaluate each firm interviewed, and rank in order three firms. The capital projects coordinator shall state in his project description

that the rules for public announcement and selection have been followed or shall state full particulars if exceptions have been taken.

SECTION 8: SELECTING CRITERIA

In selecting the three firms to be presented to the City Commission, the pre-selection committee shall take into consideration in the evaluation of the Proposals such factors as:

(1) Workload that is able to accommodate the addition of this project.
(2) Record of successfully completed projects of similar scope without legal or technical problems.
(3) Previous experience with the public owner, a good working relationship with owner representatives, projects completed in a timely manner and an acceptable quality of work.
(4) Key personnel that have appropriate for contract experience and qualifications.
(5) Relevant and easily understood graphic or tabular presentations.
(6) Completion of - Construction Manager-At-Risk projects in which there were few differences between the guaranteed maximum price and final cost.
(7) Projects that were completed on or ahead of schedule.
(8) Recent experience with project costs and schedules.
(9) Construction administration capabilities.
(10) Proximity to and familiarity with the area where the project is located.

SECTION 9: CONSTRUCTION MANAGER-AT-RISK SELECTION

(a) Upon receipt of a letter from the capital projects coordinator listing three firms in priority order along with recommendations and selection information, the finance officer of the City, upon determination that all information has been submitted, shall place the request for consideration on the agenda for the next City Commission meeting.

(b) The capital projects coordinator shall make a report to the City outlining the procedures that were followed and justification for the priority list of three firms. Upon a determination by the City that the rules in this Subchapter have been followed, the City shall:

(1) Affirm the selection of the firms in the priority order recommended; or
(2) Select the firms in a different priority order from that recommended and give justification for such selection; or
(3) Request a new priority list and give justification for such request.

SECTION 10: CONTRACT NEGOTIATION

After the three firms have been notified of the selection action by the City, a representative from the City, the capital projects coordinator, and a representative from the using agency shall discuss with the first ranked construction manager-at-risk services and information about the project. The City shall request in writing a detailed fee proposal from the first ranked Construction Manager-at-Risk. The City in coordination with the capital projects coordinator and the using agency shall attempt to negotiate a fair and equitable fee consistent with the project program and the professional services required for the specific project. In the event a fee cannot be agreed upon, the City shall terminate the negotiations and shall repeat the notification and negotiation process with the next ranked firm on the selection list. In the event a fee cannot be agreed upon with the second-ranked Construction Manager-at-Risk, the process shall be repeated with the third-ranked Construction Manager-at-Risk. If a fee still cannot be agreed upon, the City shall review the history of negotiations and make determinations including program adjustments so as to lead to a negotiated contract with one of the original three firms selected. Such renegotiation with the firms shall be carried out in the original selection order, or a call shall be made for the capital projects coordinator to submit another list of three firms in priority order to the City. The negotiation process shall continue until a fee has been determined that is agreed to by the City, the using agency and the Construction Manager-at-Risk. Following execution of the contract, the City shall publish on the City website, the list of three firms selected in priority order, the firm to be contracted with, and the fee negotiated.

SECTION 11: SAFEGUARDED INFORMATION

In all instances herein, the City shall safeguard all confidential and proprietary information provided by those firms submitting proposals. Such information shall remain confidential and proprietary and shall not be disseminated to the public. Any information made public shall be redacted to the satisfaction of the firm submitting the proposal prior to such publication.

Date: November 10, 2008

City of Deadwood
/s/ Francis A. Toscana, Mayor

ATTEST:
/s/ Mary Jo Nelson, Finance Officer

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MAYORS BUSINESS

Employees Request

Peterson moved, Klamm seconded, to allow City employees to work Veteran's Day, November 11, 2008 in exchange for the day after Thanksgiving, November 28, 2008. Roll Call: Aye- All. Motion carried.

REGULAR MEETING, November 10, 2008

ITEMS FROM CITIZENS NOT ON AGENDA

Snow Removal
Mike Trucano commended and thanked the City crews on a great job with the snow removal due to the recent and significant snowfall.

Hire Request for Snow Removal
Jim Raysor request permission to hire M & S Construction, Forgey Construction, CAI, Marc Straub, and Duffield Construction to assist the City crews in snow removal at a cost not to exceed $30,000.00. Klamm moved, Peterson seconded, to approve the expenditure of $30,000.00 for snow removal and to be paid from the Street Department budget, Finance Officer will supplement the budget prior to year-end. Roll Call: Aye- All. Motion carried.

Employee Appreciation
Mayor Toscana thanked all employees for their dedication and hard work during the recent snowstorm.

Issues with Snow Removal
Commissioner Silvernail expressed her concerns with various establishments and residents that shovel snow on the streets once the streets are cleaned. City Attorney Jason Campbell researched this issue and the City does have an Ordinance stating there is a penalty of $200 per day for those violating the law. Silvernail added she would like to see this City Ordinance enforced.

Non-Essential Employee Policy for Snow Days
Commissioner Silvernail requested that the City research and adopt a policy for snow days as they pertain to non-essential employees.

Mt Moriah Tour Bus Licenses
Silvernail moved, Peterson seconded, to continue the 2009 Mt. Moriah Tour Bus Licenses to the December 1, 2008 meeting. Roll Call: Aye- All. Motion carried.

ADJOURNMENT
Toscana moved, Klamm seconded, to adjourn the regular session at 6:00 p.m. The next regular meeting will be on Monday, November 17, 2008.

ATTEST: DATE: 11-17-08

Mary Jo Nelson, Finance Officer

BY: Francis A. Toscana, Mayor

CITY OF DEADWOOD SOUTH DAKOTA