

REGULAR MEETING, November 24, 2008

The Regular Session of the Deadwood City Commission convened on November 24, 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, Peterson seconded, to approve the minutes of November 17, 2008. Roll Call: Aye-All. Motion carried.

APPROVAL OF DISBURSEMENTS

Klamm moved, Schroeder seconded, to approve the November 24, 2008 disbursements. Roll Call: Aye-All. Motion carried.

| | | |
|----------------------------|--------------------------------|---------------------|
| A & B BUSINESS | MAINT/PUB. WORKS | 23.90 |
| ABC | INK CARTRIDGES | 6,522.79 |
| ACE INDUSTRIAL SUPPLY | TOOLS | 138.70 |
| ACTIVE DATA SYSTEMS, INC | SERVICE REPAIR ORDER #21349 | 278.00 |
| AMERICAN LIBRARY ASSOC | MEMBERSHIP | 230.00 |
| ARMSTRONG EXTINGUISHER SER | ANNUAL MAINTENANCE | 73.00 |
| BH POWER | NOV BRDWAY PRKNG RAMP | 11,610.19 |
| BH PURE | RENTAL | 24.93 |
| BH WINDOW CLEANIN | WINDOW SERVICE | 347.00 |
| BRODERSON BROS | OVERPAYMENT-CONTRACTOR'S LIC | 25.00 |
| CAPITAL REPORTING SERVICES | DEPOSITION | 79.71 |
| CARGILL, INC. | BULK DEICER | 2,425.30 |
| CENTRAL AMERICA, INC. | SNOW REMOVAL/NOV. SNOW STORM | 10,964.28 |
| CHRISTENSEN CONTRACTING | SNOW REMOVAL/NOV. SNOW STORM | 3,338.46 |
| CNA SURETY | NOTARY RNWL-MARY JO NELSON | 50.00 |
| COMMERCIAL LIGHTING CO | BULBS/PUBLIC BUILDINGS | 397.66 |
| CONSUMER REPORTS | 5 YR SUBSCRIPTION RENEWAL | 98.00 |
| CULLIGAN | WATER | 42.00 |
| DEADWOOD ECONOMIC DEV | NOV-OPERATION-BROADWAY RAMP | 1,580.02 |
| DEMCO, INC. | LASER & CUSTOM LABELS | 114.05 |
| DUFFIELD CONSTRUCTION | SNOW REMOVAL/NOV SNOW STORM | 3,239.80 |
| EDDIE'S TRUCK SALES, INC. | SWITCH | 14.46 |
| EMERY-PRATT COMPANY | BOOKS | 339.29 |
| FOOTHILLS SEED, INC. | SUPPLIES | 332.92 |
| FORGEY CONSTRUCTION LLC | SNOW REMOVAL/NOV. SNOW STORM | 4,935.00 |
| GENE JOHNSON CONSTRUCTION, | SNOW REMOVAL/NOV. SNOW STORM | 1,837.50 |
| GOLDEN WEST | COMPUTER SERVICES | 533.13 |
| HILLS MATERIALS CO | SAND FINES/SANDING | 704.87 |
| HILLSIDE DISPOSAL | NOV RESIDENTIAL GARBAGE | 5,071.00 |
| INLAND TRUCK PARTS COMPANY | REAR SPRING | 322.24 |
| INTERSTATE BATTERIES | BATTERIES | 21.00 |
| KAZCO, INC | HP DESKJET PRINTER | 59.98 |
| KNOLGY | PHONE-INTERNET SERVICE/FINANCE | 1,008.89 |
| L.A.W. TRUCKING | HAULING SNOW/NOV. SNOW STORM | 3,000.00 |
| LEAD-DEADWOOD POST PROM | DONATION-MARRIAGE FUND | 100.00 |
| M&S CONSTRUCTION | SNOW REMOVAL/NOV. SNOW STORM | 6,527.50 |
| MADDISON TRANSPORT | SNOW REMOVAL/NOV. SNOW STORM | 2,910.00 |
| MIDWEST TAPE | 3 - DVD'S | 239.30 |
| MDU | UTILITIES-LIBRARY | 175.12 |
| NAPA | RELAY/PARKS | 2,007.55 |
| NORTHERN TRUCK EQUIPMENT | INSTALL TOMMY LIFT GATE/PARKS | 2,350.00 |
| PIERCE, ED | REIMBS-SNOW RMVL EXPENSE | 79.60 |
| PITNEY BOWES | INK CARTRIDGE, POSTAGE TAPE | 120.97 |
| PIZZA HUT | PIZZA - 10/29/08 | 23.78 |
| RAPID CITY JOURNAL | SUBSCRIPTION - 52 WKS | 180.00 |
| RUSHMORE COMMUNICATIONS | RADIOS-BATTERY PACKS-GRANT REC | 3,540.00 |
| SDLN | JULY 1-JUNE 30, 2009 FY 2009 | 4,219.00 |
| SERVALL | MOP, TOWELS | 22.77 |
| SOUTH SIDE | REPAIRS - ROTORS-PADS | 711.51 |
| TEMPERATURE TECHNOLOGY | SERVICE/HISTORY CENTER | 264.29 |
| THIS OLD HOUSE | MAGAZINE RENEW/THIS OLD HOUSE | 45.00 |
| TIME | SUBSCRIPTION | 75.95 |
| TRIPLE K TIRE | TUBE-LABOR/BOBCAT REPAIR | 31.45 |
| TWILIGHT | SUPPLIES | 225.75 |
| TWIN CITY HARDWARE | PADLOCK | 1,085.60 |
| | TOTAL | \$ 84,718.21 |

ITEMS FROM CITIZENS ON AGENDA

Employee Policy Changes - Emergency/Snow Day

Assistant Finance Officer Ronda Morrison appeared before the Commission to speak on behalf of the Personnel Committee, who met previously to discuss and propose a change to the "Emergency/Snow Days Policy" to allow City employees to use vacation, comp time, personal time and the proposed change, is to add "sick leave" to the existing policy. In the event weather, or other conditions, makes it unsafe or impossible, the Mayor, or his/her designee may declare an emergency day or days for affected departments. Morrison added that the Commission had approved previously the use of sick leave for the snowstorm in May of 2008 and November 2008. Silvernail moved, Klamm seconded, to approve the request made by the Personnel Committee. Roll Call: Aye - All. Motion carried.

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Employee Policy Changes - Sick Leave Bank

Assistant Finance Officer Ronda Morrison appeared on behalf of the Personnel Committee, regarding the "sick leave bank" policy. The Personnel Committee is requesting that Item #6 be omitted from the existing policy. This item requires the employee to pay back hours used from the sick bank. The policy states when he/she are able must reimburse the sick leave bank when he/she returns to work at a rate of 50% of the sick leave earned each month, and until the entire amount borrowed, and is repaid. Morrison said the Committee feels that the sick bank has been carefully guarded and not been abused and currently has 6,496 hours in the sick bank. Morrison added that the employee must exhaust all of their sick leave, personal days, vacation time, and comp-time prior to using sick leave bank hours, which is, approved by the department head and the Personnel Committee. Silvernail moved, Klamm seconded, to approve the change requested by the Personnel Committee. Roll Call: Aye - All. Motion carried.

Deadwood Jam - Funding Request

Louie LaLonde, representing the Deadwood Jam Committee, appeared before the Commission to request financial assistance for the 2008 Deadwood Jam event. LaLonde stated that the Deadwood Jam began in 1991 and since that time, the Jam Committee has previously requested funding in 2001 and 2004, and now in 2008. LaLonde added that in the past the Jam Committee also receives \$10,000 from the Deadwood Chamber. This year they paid more for the band and due to inclement weather, they experienced a shortfall of \$15,000. Matt Pike, Chairman, stated that the shortfall is not due to mismanagement of funds, tickets sales were sufficient however, the shortfall is due to bad weather conditions, and beer sales were down. Commissioner Silvernail questioned the amount of money contributed by the Deadwood Chamber and Pike replied their contribution for 2009 will be \$15,000. Toscana said that the City does make generous contributions to this event: 1) City personnel that set up for the event 2) giving up one the prime parking lots plus the revenue for three days in order for this event to take place. He expressed his reluctance to vote on the request at this time and suggested the City wait until all 2008 tax receipts have been collected for 2008. Toscana explained that the City is still working on the Rec Center Expansion project and the City would be utilizing the Bed & Booze fund for this project as well. Toscana thanked the Jam members for what they do for the City and he said he would like to help however; this decision would need to be made in January. Commissioner Klamm agreed with the Mayor. Klamm said the Deadwood Jam is a popular event however, the residents do not feel it is up to them to assist with the funding of the event, and suggested the event be moved to the rodeo grounds or another location. Silvernail moved, Klamm seconded, continue this item to the end January 2009. Roll Call: Aye - All. Motion carried.

PUBLIC HEARINGS/BID OPENINGS

Public Hearing - 2009 Liquor/Wine License Renewals

There being no one speaking in opposition to the 2009 Liquor /Wine License renewals, Silvernail moved, Klamm seconded, to approve the renewals as follows:

RETAIL & SUNDAY ON-SALE LICENSES

B.P.O. Elks Lodge #508, (RL-5540), P.O. Box 584, Lot 11 & all except 5 feet of lot 12, Block 21, Original;

Midwest Motel of Deadwood II, Buffalo Bodega, (RL-5535), 622 Main Street, Lots 2, 4, 6, 8, 10, 12 & 14, Block 9, Original Town Deadwood;

Bullock Hotel Properties, 633-635-637 Main St., (Bullock Hotel), (RL-5542), Lots 31 & 32, Block 16, Original;

B Y Development, Inc., 360 Main St., (Cadillac Jacks), (CL-504), Bradsky Tract located in the NW1/4 of Sec. 23, Twp. 5N, Rge. 3E of the BHM;

Deadwood Hospitality Resort, LLC., (CL-15404), Hwy 85 South (Deadwood Gulch Resort), Hwy 85 South, Deadwood Gulch Addition II except Deadwood Gulch Campground Tract, Deadwood Gulch Fun Park Tract and Lot 18;

First Gold, Inc., (First Gold Hotel), (CL-502), 272 Main Street, MS 840 Lots A-1, Jessie L. Con P.C. & PT 840 (Thomas Property) MS 242, Lots A-1, MS 1054, Lot D & Lot X;

Four Aces Lodging Group, LLC., 531 Main St., (CL-505), Lots 1 thru 5 incl., Block 11; Tract 1 & 2, Block 12; Lots 13 thru 15 incl., Nly 70' of Lot 19, Lots 21, 23, 25, 27, 29, 31, 33, Block 13, Original;

Gold Dust Gaming Inc., (Gold Dust Gaming Complex), (RL-5792), 678-692 Main St., Lot 4 & the NS x 6' of Lot 5, N 1/2 of Lot 6, and all of Lot 5, 7, 8, 9, 10. Lot 11 & all except 5 feet of Lot 12, Block 21, Original;

Gold Dust Lodging Group LLC, Holiday Inn Express Hotel & Suites, (CL-503), Achtien Lot, a replat of Lots 1, 3, A, D, E and a portion of Lot F, Block 16, Original

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GR Deadwood LLC, 601 Main St., (Mineral Palace Hotel & Gaming), (CL-507), Lots 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, Tract A, Block 14, Original;

Hickok's Inc., Hickok's Hotel & Casino, (CL-508), 685 Main St., Lot 10, Block 18, Original;

Hotel Franklin, Inc., Historic Franklin Hotel, (CL-506), 700 Main St., Lots 1, 3, 5, 7, 11, Pt. 8, 10 & alley, Sections of Lots 8-14, Block 23, Original;

Miss Kitty's, (RL-5534), 643-649 Main St. (Miss Kitty's), Lots 17, 19, 21, 23, Block 16, Original;

Midnight Star Enterprises, (RL-5995), LP, 677 Main Street, Lots 6 & 7, Block 18, Original;

Midwest Motels of Deadwood, LLC, (CL-501), Hwy 85 South, (Comfort Inn), Deadwood Gulch's of Fun Tracts 1 & 2 being a portion of Deadwood Gulch Addition II;

Old Style Saloon No. 10, Inc., (RL-5537), 657 Main St., Lots 5A, 7 & 9, Block 16, and Lot 11, Block 16 Original;

Super G Investments Inc., Silverado Gaming Establishment, (RL-5538), 709 Main Street, Lots 7B, 8, 9A & 12 A of Lot 12, Block 20, Lots 5, 6, 7A & 9' of 12', & H 6' of Lot 13, Block 20, Lots 14, 16, & SE 19' of Lot 1, Block 20 Original;

VFW Post 5969, (RL-5541), P.O. Box 443, Lots 28, 29, Pt. 30, and all of 31 & 32, Wstly. Pt. of Lots 33, 34, & 35, Block 33; Original;

Badlands Gaming LLC, (Lucky Nugget), (RL-5536), 608-624 Main St., Lots 6, 8 & 10, 12, 14, 16, 18, 20, 22, 24, 26 & 26A, Block 15, Original.

PACKAGE (OFF-SALE) LIQUOR

Bauer, David L. & Laray, 95 Sherman Street, (Pack Horse Liquor & Convenience), (PL-4523), Lots 1, 3, & 5, Block 34, Original;

Deadwood Hospitality Resort, LLC., Deadwood Gulch Resort, (PL-4522), Hwy 85 South, Deadwood Gulch Addition II except Deadwood Gulch Campground Tract, Deadwood Gulch Fun Park Tract and Lot 18;

Four Aces Lodging Group, LLC., (PL-4521), 531 Main St., Lots 1 thru 5 incl., Block 11; Tract 1 & 2, Block 12; Lots 13 thru 15 incl., Nly 70' of Lot 19, Lots 21, 23, 25, 27, 29, 31, 33, Block 13, Original;

Gold Dust Gaming Inc., (Gold Dust Convenience Store), (PL-4520) 668 Main St., Lot A, Block 21, Original;

GR Deadwood LLC, 601 Main St., (Mineral Palace Hotel & Gaming), (PL-4524), Lots 21, 23, 25, 27, 29, Block 14, Original;

RETAIL (ON-SALE) WINE

Tin Lizzie Gambling Halls, Inc., 555 Main Street, (Tin Lizzie), (RW-6491), Part of Lots 8 & 10, Block 12, Martindale Tract;

BRI, Inc., 137 Charles St., (Best Western Hickok House), (RW-6466), Lots 1, 3, 5, 7, 9, 11, 13, 15, 17, & 19, Block 77, Original;

B Y Development, Inc., 360 Main St., (Cadillac Jacks), (RW-6537), Bradsky Tract located in the NW1/4 of Sec. 23, Twp. 5N, Rge. 3E of the BHM;

Deadwood Inc. & Gamblers Gulch, Inc. (Deadwood Gulch Saloon), (RW-6646), 558 & 560 Main Street, 558 Main, Lot 1, 3 & 5, Block 13, 560 Main, Lot 69, Block 15, Original;

Deadwood Thymes Café Inc., (RW-6434), 87 Sherman Street, Lots 13 & 15, Block 24 Original;

Deadwood Development Co. Inc., (Wooden Nickel), (RW-6495), 5-9 Lee St., Lots 3 & 4, Block 28, Lots 1 & 2, Block 28 and Lots 5, 6, 7 and Portion N ½, Lots 8, 9 & 10, Block 28, Tract A, Original;

Deadwood Development Co., (The Gallows), (RW-6433), Tract A, Block 29, Original;

Deals Publications, Inc., 629 Main Street, (Celebrity Hotel), (RW-6542), Lots E & F (aka 1 & 3), Block 14, Original;

Deals Publications, Inc., 638 Main Street, (Mint), (RW-6438), Lot 24, Block 17, Original;

Deadwood Hospitality Resort LLC., Hwy 85 S, (Deadwood Gulch Resort), (RW-6401), Deadwood Gulch Addition II except Deadwood Gulch Campground Tract, Deadwood Gulch Fun Park Tract and Lot 18;

GG & E LLC, (BB Cody's), (RW-6428), 681 Main St., Tract B and Lots 8, 9 and 10 and a portion of Lots 6 and 7, Block 18, and a portion of M.S. #72, Original;

Hickok's Hotel & Casino Inc., (Hickok's Iron Horse Inn), (RW-6601), 27 Deadwood St, 5100 Ft, Lots 8, 9, 10, Block 28, Original;

Hickok's, Inc., (RW-6446), 685 Main St., Lot 10, Block 18, Original;

Dunne, Mary C., 51-56-55 Sherman St. (Deadwood Dicks Saloon), (RW-6562), 1.6' of Lot 17, & all of lots 19, 21, 23, 25, 26 & part of 27, Block 30, Original;

Fairmont Hotel Corp., (RW-6461), 626-628 Main St., Lots 2 & 4, Block 15, Lots C, D, E, F, G & H, Block H, Original;

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Four Aces Lodging Group, LLC., (RW-6415), 531 Main St., , Lots 1 thru 5 incl., Block 11; Tract 1 & 2, Block 12; Lots 13 thru 15 incl., Nly 70' of Lot 19, Lots 21, 23, 25, 27, 29, 31, 33, Block 13, Original;

GR Deadwood LLC, 601 - 605 Main St., (Mineral Palace Hotel & Gaming), (RW-6480), Lots 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, Tract A, Block 14, Original;

Hotel Franklin Inc., Historic Franklin Hotel, (RW-6643), 700 Main St., Lots 1, 3, 5, 7, 11, Pt. 8, 10 & & alley, Sections of Lots 8-14, Block 23, Original;

Mustang Sally's Inc, (RW-6499), 634 Main Street, Lots 26 & 28, Block 17M, Original;

Princeton, Inc., Hwy 85 South, (Deadwood Super 8/Lucky 8 Gaming), (RW-6447), Riverside Addition, Tract A of Probate lot 82 and PT Probate Lot 420 and PT School Lot 19;

Super G Investments, Inc., 709 Main St., (Silverado Gaming), (RW-6436), Lots 5, 6, 7A, 7B, 8, 9, 10, 11, 12, 12A and B, SE 19' of Lot 13 and all of Lots 14 & 16, Block 20, Original;

Deadwood Tobacco Company, John & Vaughn Boyd, (RW-6648), 628 Main Street (basement), Lot 15, Block 2, Original Town Deadwood.

Maverick Enterprises, LLC, 124 Sherman St., (Blondies IGA), (RW-6690), Lot 10, 12, 14, 16, 18, 20, 22, Ely 1/2 of vacated Carney St Lot 24, Block 37 parking lot, Original Town Deadwood.

Roll Call: Aye - All. Motion carried.

Bid Opening

Finance Officer Mary Jo Nelson opened and read the following bids for the demolition and reconstruction of retaining walls located at the following locations: 128 Williams Street, 24 Raymond Street, 49 and 39 Terrace Street. Mayor Toscana requested that this item be continue to allow the Historic Preservation Officer time to review the bids. Klamm moved, Silvermail seconded, to continue this item. Roll Call: Aye - All. Motion carried. The bids are as follows:

| Location | | 39 Terrace | 49 Terrace | 24 Raymond | 128 Williams |
|----------------------------|-----------------|------------|------------|------------|--------------|
| Engineer's Estimate | Bid Bond | \$14,256 | \$55,874 | \$94,530 | \$67,446.50 |
| Contractor | | | | | |
| Lehman Construction | X | \$11,895 | \$53,120 | \$53,640 | \$97,900 |
| Ainsworth Benning | X | \$22,150 | \$77,190 | \$91,460 | \$88,890 |
| RCS Construction | X | \$20,230 | \$66,500 | \$70,900 | \$69,600 |
| Dean Kurtz Construction | X | \$28,830 | \$65,500 | \$109,750 | \$86,000 |

FINANCE

Payment Request

Peterson moved, Silvermail seconded, to allow the Finance Office to pay First National Trust \$17,897.75 for trustee fees owned for Certificates of Participation: Bond Series 1999, 2003, 2004, 2005, 2006, and Escrow Account, to be paid from the Historic Preservation fund. Roll Call: Aye - All. Motion carried.

Payment Request

Peterson moved, Silvermail seconded, to approve the payment of \$1,340,000.00 principal and \$1,022,568.75 interest on Historic Preservation Certificates of Participation. Roll Call: Aye - All. Motion carried.

HISTORIC PRESERVATION/PLANNING & ZONING/PUBLIC BUILDINGS/SAFETY

Travel Request

Toscana moved, Peterson seconded, to allow Kevin Kuchenbecker to attend the South Dakota State Historical Society Board meeting in Pierre on December 12, requesting meals and use of vehicle. Roll Call: Aye - All. Motion carried.

STREETS/WATER/LIBRARY

Information - Expenditures for Snow Removal

Jim Raysor informed the Commission of the snow removal costs for the November 6-7, 2008 snowstorm, which totaled \$30,594. Raysor added that this amount does not include the City employee man-hours plus equipment and fuel costs. This cost was approved at the November 10, 2008 meeting.

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PARKS/RECREATION/TROLLEY

Purchase Request

Jim Raysor told the Commission that by purchasing this grate and switch the City would comply with the Virginia Graeme Baker Act and requested permission to purchase the items.

Silvermail moved, Peterson seconded, to purchase vortex grate and vacuum limit switch for the Rec Center pool from Recreation Supply Company at a cost of \$1,646.70. Roll Call: Aye - All. Motion carried.

Employee Resignation

Silvermail moved, Peterson seconded, to accept with regret the resignation of Greg Crotty effective November 28, 2008. Roll Call: Aye - All. Motion carried.

Employee Resignation

Silvermail moved, Peterson seconded, to accept with regret the resignation of Bo Burleson effective November 21, 2008. Roll Call: Aye - All. Motion carried.

Advertise Positions

Silvermail moved, Peterson seconded, to allow the Parks Department to post vacant positions in house for five day then advertise to fill positions. Roll Call: Aye - All. Motion carried.

LEGAL BUSINESS

Resolution 2008-29

City Attorney Jason Campbell informed the Commission that Resolution 2008-29, authorizes the financing package between the City of Deadwood and the Bank regarding the financing to build the convention center and pay back the financing with the Tax Increment Financing Funds, which were previously approved. Campbell noted for the Commission that Item 5.01 was amended prior to the meeting however, this amendment does not change the fundamental purpose of said resolution.

Silvermail moved, Peterson seconded, to approve Resolution 2008-29 with recommended changes. Roll Call: Aye - All. Motion carried.

RESOLUTION NO. 2008-29

RESOLUTION RELATING TO LEASE FINANCING OF A PROJECT; AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, A LEASE-PURCHASE AGREEMENT, AN ESCROW AGREEMENT AND OTHER DOCUMENTS RELATED THERETO

BE IT RESOLVED by the City Commission of the City of Deadwood, South Dakota (the "City"), as follows:

SECTION 1. RECITALS.

1.01. The City is authorized by South Dakota Codified Laws, Section 9-12-1, to enter into lease-purchase agreements for acquisition of real or personal property that the governing body considers necessary or appropriate to carry out its governmental and proprietary functions. This Commission finds that it is necessary and appropriate for the City's economic and civic health to acquire and construct a convention center in the City.

1.02. The City owns certain land (the "Land") upon which the convention center will be constructed (the "Building," and, together with the Land, the "Project").

1.03. The City has received a proposal from First Western Bank (the "Bank"), whereby the Bank has agreed to finance the acquisition and construction of the Building on the Land pursuant to a financing transaction in which the City will lease the Land to the Bank pursuant to a Ground Lease (the "Ground Lease"), and the Bank will lease the Project back to the City and grant to the City an option to purchase the Project pursuant to the terms and conditions of a Lease-Purchase Agreement (the "Agreement"), between the Bank, as lessor, and the City, as lessee.

1.04. The City and the Bank have agreed that the Bank will establish an Acquisition Account to hold and disburse the funds for the acquisition and construction of the Building and a Reserve Account as security for the City's obligation to make Lease Payments under the Agreement, and will enter into an Escrow Agreement (the "Escrow Agreement") for that purpose.

SECTION 2. FINDINGS. On the basis of information given the City to date, it is hereby found, determined and declared that:

(a) the financing described in Section 1 is found to be favorable to the City and is hereby approved;

(b) the acquisition and construction of the Building is hereby approved;

(c) it is desirable and in the best interest of the City to enter into the Ground Lease, the Agreement and the Escrow Agreement.

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SECTION 3. AUTHORIZATION.

3.01. The Agreement will provide for a principal amount of \$3,515,000 payable over a term not to exceed 16 years, bearing interest at a rate of 6.00% per annum, with semi-annual payments of principal and interest. The Agreement will also provide that the City may at any time discharge its obligation to pay the Lease Payments due under the Agreement by depositing irrevocably in escrow with a bank or trust company, cash or securities, as described in the Agreement, which shall be sufficient to pay or prepay all unpaid Lease Payments on the dates when they are due.

3.02. The Mayor and Finance Officer, in consultation with the City Attorney, are authorized and directed to approve the form and terms of the Ground Lease, the Agreement and Escrow Agreement (together, the "Operative Documents") to be prepared by Dorsey & Whitney LLP, and to execute and deliver the Operative Documents in the name of and on behalf of the City. The execution and delivery of the Operative Documents by the Mayor and Finance Officer shall be conclusive evidence of their approval of the form and terms thereof. All of the provisions of the Operative Documents, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated herein.

3.03 The Mayor and Finance Officer, in consultation with the City Attorney, are authorized and directed to execute such certificates and other documents as may be necessary and appropriate to effectuate the transactions contemplated by the Operative Documents.

SECTION 4. PAYMENT OF RENT; PLEDGED REVENUES.

4.01. The City will pay to the Bank promptly when due, all of the Lease Payments (as defined in the Agreement) and other amounts required by the Lease. To provide moneys to make such payments and to maintain the Reserve Account (as defined in the Agreement), the City will include in its annual budget, for each fiscal year during the term of the Agreement, moneys sufficient to pay and for the purpose of paying all Lease Payments and other amounts payable under the Agreement and maintaining the required balance in the Reserve Account, and will take all other actions necessary to provide moneys for the payment of the obligations of the City under the Agreement from sources of the City lawfully available for this purpose; provided, however, that the agreement of the City under this Section shall be subject to the provisions for termination set forth in the Agreement.

4.02. The City intends to pay the Lease Payments primarily from the collections of tax increment revenues received by the City from its Tax Incremental District Number Six, which revenues (the "Pledged Revenues") are hereby pledged for the payment of Lease Payments, security deposits and other amounts payable under the Agreement; provided, however, that the pledge of the City under this Section shall be subject to the provisions for termination set forth in the Agreement.

5.01. Covenant. The City covenants and agrees with the Bank, 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 component of the Lease Payments to become subject to taxation under the Internal Revenue Code of 1986, as amended (the Code) and any regulations issued thereunder (the Treasury Regulations), in effect at the time of such action, and that it will take, or it will cause its officers, employees or agents to take, all affirmative actions within its powers which may be necessary to insure that the interest component of the Lease Payments will not become subject to taxation under the Code and the Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Agreement. The City represents and covenants that the City is the owner for tax purposes of the facilities comprising the Project and uses them for its municipal functions. So long as the Agreement is in effect, the City will not enter into any lease, use agreement or other contract or agreement respecting the Project which would cause the Agreement to be considered a "private activity bond" or "private loan bond" pursuant to the provisions of Section 141 of the Code.

5.02. Arbitrage Certification. The Mayor and Finance Officer being the officers of the City charged with the responsibility for executing and delivering the Agreement pursuant to this resolution, are authorized and directed to execute and deliver to the Bank a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating the facts, estimates and circumstances in existence on the date of execution and delivery of the Lease which make it reasonable to expect that the proceeds of the Lease will not be used in a manner that would cause the Lease to be an arbitrage bond within the meaning of the Code and Regulations.

5.03. Arbitrage Rebate Exemption. It is hereby found that the City has general taxing powers, that the Lease is not a "private activity bond" within the meaning of Section 141 of the Code, that 95% or more of the net proceeds of the Lease are to be used for local governmental activities of the City, and that the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued by the City and all subordinate entities thereof during the year 2008 is not reasonably expected to exceed \$5,000,000. Therefore, pursuant to the provisions of Section 148(f)(4)(D) of the Code, the City shall not be required to comply with the arbitrage rebate requirements of paragraphs (2) and (3) of Section 148(f) of the Code. If, notwithstanding these findings, the arbitrage rebate requirements of Section 148(f)(4)(D) of the Code are determined to be applicable to the Lease, the City hereby covenants and agrees to make computations, retain records and pay amounts to the United States at the times and in the manner required by said Section 148(f)(4)(D) of the Code.

5.04. Qualified Tax-Exempt Obligations. The City Commission hereby designates the Lease and the Lease Payments thereunder as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code relating to the disallowance of interest expense for financial institutions, and hereby finds that the reasonably anticipated amount of qualified tax-exempt obligations (within the meaning of Section 265(b)(3) of the Code) which will be issued by the City and all subordinate entities during calendar year 2008 does not exceed \$10,000,000.

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UPON VOTE BEING TAKEN, the following Commissioners voted in favor:
Mayor Toscana, Commissioners, Mike Klamm, Joe Peterson, Lenny Schroeder, and Georgeann Silvernail

ADOPTED by the City Commission of the City of Deadwood, South Dakota, this 24th day of November, 2008.

/s/ Francis A. Toscana, Mayor

ATTEST:

/s/ Mary Jo Nelson, Finance Officer

* * * * *

McDirt Excavation - Agreement

Silvernail moved, Schroeder seconded, to allow the Mayor to sign the Agreement between the City of Deadwood and McDirt Excavation for water main and sewer line work for \$15,637.65, previously approved. Roll Call: Aye - All. Motion carried.

MAYORS BUSINESS

Happy Thanksgiving

Mayor Toscana extended a Happy Thanksgiving to everyone.

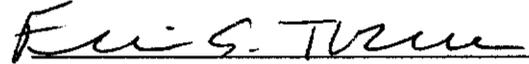
ADJOURNMENT

Schroeder moved, Klamm seconded, to adjourn the regular session at 5:45 p.m. The next regular meeting will be on Monday, December 1, 2008.

ATTEST:

Mary Jo Nelson, Finance Officer

DATE: 12/1/08

BY: 
Francis A. Toscana, Mayor

