



# City Commission Regular Meeting Agenda

Monday, July 15, 2024 at 5:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

---

Public comments are welcomed, but no action can be taken by the Commission on comments received at this meeting. Anyone wishing to have the Commission vote on an item should call the Finance Office at 578-2600 by 5:00 p.m. on the Wednesday preceding the next scheduled meeting to be placed on the agenda.

1. **Call to Order and Pledge of Allegiance**

2. **Roll Call**

3. **Approve Minutes**

[a.](#) Approval of July 1, 2024 City Commission minutes

4. **Approve Bills**

[a.](#) Approval of Bill List for July 15, 2024

5. **Items from Citizens on Agenda**

6. **Consent Agenda**

Matters appearing on Consent Agenda are expected to be non-controversial and will be acted upon by the Commission at one time, without discussion, unless a member of the Commission requests an opportunity to address any given item. Items removed from the Consent Agenda will be discussed at the beginning of New Business.

[a.](#) Resolution 2024-16 Declare Surplus Property

[b.](#) Resolution 2024-17 Support the City's application to South Dakota Department of Transportation's Community Access Grant program for the reconstruction of Crescent Street.

c. Add Faith Erickson and remove Karla Dower effective July 5, 2024 from the Volunteer Fire Department Roster for worker's compensation purposes.

d. Permission to make 2024 budget allocation to The Lord's Cupboard in the amount of \$2,500.00 from Bed and Booze fund.

e. Permission to hire Jim Doolittle for 2025 union negotiations at \$400.00 per session.

f. Permission to hire up to three rally officers for 2024 motorcycle rally at rate of \$25.80 per hour.

[g.](#) Permission to approve revised job descriptions for Police Lieutenant and Sergeant positions.

- h. Permission to adopt new Safety Manual per recommendation of City of Deadwood Safety Committee.
- i. Permission for the Mayor to appoint Anita Knipper and Jason Rakow to the Board of Appeals with the term expiring May 31, 2027.
- j. Permission to approve request from Outlaw Square for financial support of Brule' for the July 23, 2024, performance in the amount of \$5,000.00. (To be paid by HP Public Education line item.)
- k. Permission for Mayor to sign annual parking lease with Conrad Companies for two (2) parking spots located on Siever Street for a total of \$150.00 per month plus tax.
- l. Permission to purchase new laptop workstation from Golden West Technologies in the amount not to exceed \$3,600.00 for City Archives. (To be paid by 2024 Archives equipment line item.)
- m. Approve Motorcycle Parking (approximately 30) July 20, 2024, in front of 624 Main Street for the Jayden's Giving Heart Motorcycle Ride/Scavenger Hunt from 12:00-1:30 pm with the conditions they prevent other motorcycles from parking (Recommendation from the Parking & Transportation Committee).
- n. Permission to pay Chris Schmidt to replace the concrete panels on Burnham Avenue due to water line repair at a cost of \$4,450.00. (To be paid by Water repairs line item.)
- o. Permission to pay William Schmidt for repair to curb/gutter on Van Buren Avenue in the amount of \$3,364.00. (To be paid by Streets repairs line item.)
- p. Permission to pay William Schmidt to replace basement sidewalk at Days of '76 Museum in the amount of \$7,152.00. (To be paid by Public Buildings repair line item.)
- q. Permission to purchase a heavy duty adjustable load chute for the Days of '76 Arena from Tobin Livestock Equipment in an amount not to exceed \$7,329.75. (To be paid from HP Capital Assets.)
- r. Permission to enter into a professional services contract with Chamberlain Architects in the amount of \$3,500.00 for conceptual design services for a possible Deadwood Senior Center. (To be paid by HP Professional Services).
- s. Permission for the Mayor to sign Conservation Easements to prevent future development and/or alterations that would encroach upon, damage, or destroy the Deadwood National Historic Landmark District on eleven (11) undeveloped properties owned by the City of Deadwood and Deadwood Historic Preservation Commission being known as Lot 2 Part of School Lot 1; Part of School Lot 2; Part of School Lots 3, 5 through 7, and all of Lot 4; School Lot 9; School Lot 10; School Lots 11 and 14; School Lot 12; School Lot 13; School Lot 33; School Lot 37; School Lots 42 through 49. (Planning and Zoning and Historic Preservation Commissions recommend approval.)
- t. Permission to purchase two tasers from Axon Enterprise in an amount not to exceed \$3,892.62. (To be paid by Police equipment line item.)



7. **Bid Items**

8. **Public Hearings**

- [a.](#) Hold public hearing for Convention Center Package (off sale) Liquor License for B.Y. Development, Cadillac Jack's at 360 Main Street.
- [b.](#) Hold public hearing for Retail (on-off sale) Malt Beverage and SD Farm Wine and Retail (on-off sale) Wine and Cider Licenses for The Crossings at Spearfish Canyon LLC dba Dave's Deli Delights at 61 Sherman Street.
- [c.](#) Hold public hearing for Retail (on-off sale) Malt Beverage and SD Farm Wine License for Boondocks, LLC dba Mr. Goodstores at 622 Main Street.
- [d.](#) Hold public hearing for Outlaw Shootout AAU Wrestling: street closure on Deadwood Street from Main Street to Pioneer Way from 6:00 a.m. on July 20 to 1:00 a.m. on Sunday, July 21, 2024.
- [e.](#) Hold public hearing for Steer Roping Event: waiver of user fees Friday, August 16 through Sunday, August 18, open container Friday, August 16 through Monday, August 19 from 10:00 a.m. to 2:00 a.m. daily, and special liquor license for Days of '76 Committee from Friday, August 16 through Sunday, August 18, 2024 from 10:00 a.m. to 6:00 p.m. at the Event Complex.
- [f.](#) Hold public hearing for the Preacher Smith Deadwood Redemption Day: street closure on Deadwood Street from Main Street to Pioneer Way from 8:00 a.m. on Saturday, August 17 to 1:00 a.m. on Sunday, August 18, 2024. Deadwood Street will reopen for the Deadwood Alive performance at 2:00 p.m. and close at 2:30 p.m.
- [g.](#) Hold public hearing for Fair in the Square: street closure on Deadwood Street from Main Street to Pioneer Way from 11:00 a.m. on Friday, September 6 to 10:00 p.m. on Saturday, September 7, 2024.
- [h.](#) Hold public hearing for Black Hills Veterans March: waiver of user fees Friday, September 20 and Saturday, September 21 and open container Saturday, September 21, 2024 from noon to 9:00 p.m. at the Event Complex.

9. **Old Business**

10. **New Business**

- [a.](#) First Reading of Ordinance #1401 Budget Supplement 4 for 2024
- [b.](#) First Reading of Ordinance #1402 Amending Chapter 15.32
- [c.](#) First Reading of Ordinance #1403 to amend definition of Short-term Rentals specifically Bed and Breakfast Establishments
- [d.](#) Act as Board of Adjustments and approve/deny application for Conditional Use Permit - Construction of Dwelling Unit, Single Family - 307 Cliff Street (Terry and Dawn Bahr) legally described as Lot 1 revised of the subdivision of Tract E-1 formerly Lot 1 of the subdivision of Tract E-1 being a portion of Hillside Placer M.S. 749 located in the SE 1/4 of Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota. (Approved by the Planning and Zoning Commission on July 3, 2024).

- e. Review Findings of Fact and Conclusion - Conditional Use Permit - Vacation Home Establishment – 140 Timm Lane – Glen Morovits legally described as Lot 6 of the Arnio Subdivision of M.S. 107, according to the S.C. Berry Plat recorded in Plat Book 2 Page 88D, City of Deadwood, Lawrence County, South Dakota. (Approved with conditions by Board of Adjustment on May 20, 2024).
- f. Approve/deny application for Temporary Vendors License - Ray Drea Studios, LLC - applicant requests license to sell fine art and paintings during the Sturgis Rally from August 1, 2024 through August 11, 2024. (Approved by Planning and Zoning Commission on July 3, 2024.)
- g. Permission to hire Jacob's Welding to fabricate snow box for the Red Baron dump truck at a cost not to exceed \$13,446.45. (To be paid by Streets equipment line item.)
- h. Permission to pay Utility Service Company \$53,723.00 for the McGovern Hill water tanks annual maintenance agreement. (To be paid by Water Professional Services line item.)
- i. Permission to accept Construction Change Order #1 to increase contract by \$5,900.00 for a total of \$60,900.00 for the 74 Van Buren Retaining Wall.
- j. Permission to accept Construction Change Order #6 at a cost of \$41,638.00 with RCS Construction for additional paving associated with Whitewood Creek FEMA project. (A portion reimbursable from FEMA).

11. **Informational Items and Items from Citizens**

12. **Executive Session**

- a. Executive Session for Personnel Matters per SDCL1-25-2 (1) w/ possible action  
Executive Session for Legal Matters per SDCL1-25-2 (3) w/ possible action

13. **Adjournment**

This will be a public Meeting conducted through Zoom. To participate, join Zoom Meeting

URL: <https://us02web.zoom.us/j/6055782082?pwd=Z1QrRXhXaXp4eStPSjg2YjVTNUtZQT09>

Meeting ID: 605 578 2082

Password: 1876

One tap mobile: 669-900-9128

*If you no longer have business activities during the meeting, do not feel obligated to remain.*

**REGULAR MEETING, JULY 1, 2024**

The Regular Session of the Deadwood City Commission convened on Monday, July 1, 2024 at 5:00 p.m. in the Deadwood City Commission Chambers, 102 Sherman Street, Deadwood, South Dakota. Mayor David Ruth Jr. called the meeting to order with the following members present: Department Heads, City Attorney Quentin Riggins, and Commissioners Michael Johnson, Blake Joseph, Sharon Martinisko and Charlie Struble. All motions passed unanimously unless otherwise stated.

**APPROVAL OF MINUTES**

Struble moved, Martinisko seconded to approve the minutes of June 17, 2024. Roll Call: Aye-All. Motion carried.

**JUNE 2024 PAYROLL:** COMMISSION, \$3,692.28; FINANCE, \$24,056.65; PUBLIC BUILDINGS, \$7,659.42; POLICE, \$83,118.02; FIRE, \$6,036.92; BUILDING INSPECTION, \$5,915.08; STREETS, \$34,037.50; PARKS, \$44,283.54; PLANNING & ZONING, \$3,869.70; LIBRARY, \$9,256.85; RECREATION CENTER, \$25,500.19; HISTORIC PRESERVATION, \$25,139.92; WATER, \$18,884.70; PARKING METER, \$16,547.57; TROLLEY, \$24,995.63; PARKING RAMP, \$3,282.82 **PAYROLL TOTAL: \$343,108.79.**

**JUNE 2024 PAYROLL PAYMENTS:**

Internal Revenue Service, \$76,659.14; S.D. Retirement System, \$36,449.76; Delta Dental, \$3,753.50.

**APPROVAL OF DISBURSEMENTS**

Martinisko moved, Johnson seconded to approve the July 1, 2024 disbursements as amended. Roll Call: Aye-All. Motion carried.

1000BULBS.COM	SUPPLIES	112.26
A & B BUSINESS SOLUTIONS	CONTRACT	612.00
ACE HARDWARE	SUPPLIES	123.37
AMAZON CAPITAL	SUPPLIES	3,468.99
ATCO INTERNATIONAL	SUPPLIES	401.80
BARCO MUNICIPAL PRODUCTS	SUPPLIES	433.04
BICKLE'S TRUCK	SUPPLIES	700.12
BH CHEMICAL	SUPPLIES	1,478.48
BH MINING MUSEUM	SUPPLIES	1,191.24
BH SECURITY	SERVICE	3,041.85
BLUEPEAK	SERVICE	4,443.48
BOMGAARS	SUPPLIES	654.41
BRANCH CONSTRUCTION	PROJECT	3,705.00
BROKEN BOOT GOLD MINE	SERVICE	1,075.00
CENTURY BUSINESS PRODUCTS	CONTRACT	300.29
CHAINSAW CENTER	SERVICE	1,247.95
COMPLETE CONCRETE	PAY APP	105,650.29
DAYS OF '76	BID #8	20,000.00
DEADWOOD CHAMBER	BILL LIST	1,826.24
DEADWOOD CUSTOM CYCLES	SERVICE	2,382.01
DVFD	REIMBURSEMENT	90.00
DEADWOOD GAMING	BID #8	10,000.00
DEADWOOD GULCH LODGE	RENTAL	27,500.00
DEADWOOD-LEAD ECONOMIC	ALLOCATION	38,000.00
DEMCO	SUPPLIES	346.50
DIAMOND VOGEL PAINT CENTER	SUPPLIES	325.65
EATON CONSTRUCTION	SUPPLIES	1,224.49
EBSCO	SUBSCRIPTION	4.40
FEEDING DEADWOOD	FEEDING DEADWOOD	536.13
FETTER, CHARLES	REIMBURSEMENT	54.00
FIRST GOLD HOTEL	BID #8	30,000.00
GOLDEN WEST	SERVICE	4,638.00
GUNDERSON, PALMER, NELSON	SERVICE	3,620.31
HART, CLIFF	REFUND	20.00
HAWKINS	SUPPLIES	1,171.60
HILLYARD	SUPPLIES	125.09
INTERSTATE ENGINEERING	SERVICE	980.88
JACOBS WELDING	SERVICE	183.28
JANDT, ERIK	REIMBURSEMENT	1,042.45
JOE DIRT SEPTIC & DRAIN	SERVICE	643.00
JOHNER PAVING	PROJECT	47,930.70
K4 TRAILS	PROJECT	13,387.65
KIMBALL MIDWEST	SUPPLIES	245.18
KLAMM, MIKE	REIMBURSEMENT	54.00
KNECHT HOME CENTER	SUPPLIES	359.12
KNIPPER, ANITA	REIMBURSEMENT	107.00
LEAD-DEADWOOD SCHOOL	PARKING DONATION	2,000.00
LEGENDARY ELECTRIC	SERVICE	680.42
LYNN'S	SUPPLIES	7.38
MARCO	CONTRACT	168.90
MCCORMICK CUSTOM BUILDERS	PROJECT	2,433.65
MID-AMERICAN RESEARCH CHEM	SUPPLIES	235.75
MIDWEST TAPE	SUPPLIES	26.24
MDU	SERVICE	14,399.79
MORRISON, RONDA	SERVICE	680.00

**REGULAR MEETING, JULY 1, 2024**

MS MAIL	SERVICE	1,632.27
NORTHWEST PIPE FITTINGS	SUPPLIES	1,279.59
OTIS ELEVATOR	MAINTENANCE	162.69
PETE LIEN & SONS	SERVICE	670.50
QUIK SIGNS	SUPPLIES	382.76
RASMUSSEN	SERVICE	2,645.69
RCS CONSTRUCTION	PROJECT	681,967.36
ROGERS CONSTRUCTION	PROJECT	69,097.50
S AND C CLEANERS	CLEANING	9,753.30
SCHLOSSER CONSTRUCTION	PROJECT	9,690.00
SCOTT PETERSON MOTORS	SERVICE	2,232.45
SCOTT PETERSON MOTORS	SUPPLIES	230.27
SD DEPT OF REVENUE	SERVICE	6,291.75
SOUTHSIDE OIL	FUEL	16,358.29
SPEARFISH ELECTRIC	SERVICE	301.02
STAN HOUSTON EQUIP	SUPPLIES	947.50
STURDEVANT'S	SUPPLIES	2,823.22
SUMMIT SIGNS	SUPPLIES	132.00
SUNSHINE TOWING	SERVICE	246.90
TECHNOLOGY	CAMERAS	12,543.99
TURBIVILLE INDUSTRIAL	SERVICE	954.16
TWIN CITY HARDWARE	SUPPLIES	1,911.61
TWIN CITY HARDWARE	GRANTS	5,051.50
TWIN CITY HARDWARE	GRANTS	1,276.79
TWO WHEELER DEALER	SUPPLIES	1,477.15
ULINE	SUPPLIES	627.21
VERIZON WIRELESS	SERVICE	708.40
VIEHAUSER ENTERPRISES	SERVICE	393.96
VIGILANT BUSINESS	SERVICE	1,190.60
WELLS PLUMBING	SUPPLIES	124.60
WESTERN STATES FIRE	SERVICE	802.61
WHITE'S CANYON MOTORS	SERVICE	2,936.43
YESCO RAPID CITY	PROJECT	807.15
ZEP SALES	SUPPLIES	92.96

Total \$1,193,813.56

**ITEMS FROM CITIZENS ON AGENDA****Operation**

Attorney Tim Johns spoke about the multi-passenger quadricycle that Crusin Cycle Company would like to operate within the City of Deadwood, House Bill 1225 and Chapter 5.48 Vehicles for Hire within city ordinances. Tera Little-Geving, Crusin Cycle Company, spoke about the business and the timeline of emails and phone calls leading up to now. She stated the Party Pedaler will offer a fun and interactive way for groups to explore the city which will last approximately 2 hours and will feature 3-4 stops at local businesses. Mayor Ruth Jr. thanked them for attending and explaining the business. He mentioned safety concerns. City Attorney Riggins stated there are two aspects on whether if it is a taxicab; 1st does the vehicle type fall under the definitions of a taxicab and 2nd does it allow people to get on and be dropped off at destinations of chose. He said when it comes to whether it qualifies by definition, that answer is yes, since it says including but not limited to, lists everything from motorized vehicles to non-motorized vehicles that pick up passengers and drop off passengers. Crusin Cycle Company says it is a set route, if that is the case, by definition it may not necessarily be a taxicab but if it starts engaging in services that qualify as a taxicab then it would violate the ordinance. Jerrid Geving, Crusin Cycle Company, stated the pick-up and drop off would be at the same designation location. Commissioner Joseph asked if the customer could stop at their choice of drop offs. Tera spoke about the 3 different packages they would offer. Commissioner Struble asked about reservations or walk up. Tera said reservations would be recommended. Commissioner Martinisko asked if they would be considered a tour convenience license instead of a taxi, and alcohol license. Commissioner Johnsons asked about hours of operation. Mayor Ruth Jr. asked attorney Riggins if the Commission decides that it is a taxi, what are steps going forward if Crusin Cycle Company would challenge the decision. Riggins stated they could obtain a taxi license if one is available, and that they can visit with their attorney to discuss other remedies. Attorney Johns spoke about the definition and examples of taxicabs. Discussion was held concerning whether it is a taxi, tour conveyance, public safety, congestion on Main Street, the stagecoach and Deadwood Alive Reenactments. Martinisko moved, Joseph seconded to continue the operation of multi-passenger quadricycle till July 15, 2024 for further discussion. Roll Call: Aye-All. Motion carried.

**REGULAR MEETING, JULY 1, 2024****CONSENT**

Struble moved, Joseph seconded to approve the following consent items. Roll Call: Aye-All. Motion carried.

- A. Acknowledge invoice for Johner Paving which is \$958.70 higher than approved amount on May 6, 2024 due to excise tax not included in quote. (To be paid by Streets Improvements line item.)
- B. Permission to pay Johner Paving in the amount of \$2,562.86 for asphalt patchwork on Van Buren and Madison. (To be paid by Streets repairs line item.)
- C. Permission to purchase four outdoor interpretive panels from Pannier Graphics at a cost not to exceed \$3,400.00. (To be paid by HP Public Education line item.)
- D. Permission to approve Round 2 of the 2024 Outside-of-Deadwood Grants as recommended by the Deadwood Historic Preservation Commission.
- E. Permission for Mayor to sign agreement with DGR Engineering for Burnham Avenue extension.
- F. Deadwood History Inc. request approval to serve complimentary beer and wine for Big Thank You Event at Adams Museum from 5:00 p.m. to 7:00 p.m. Thursday, September 12, 2024
- G. Permission to expend up to \$3,325.00 for fire hose from M & T Fire. (To be paid by Fire Department Equipment line item.)
- H. Permission to hire RCI to fill existing mine shaft along White Rocks Trail to mitigate safety concerns at a cost not to exceed \$8,000.00. (To be paid by BID 8 Trails budget allocation.)

**PUBLIC HEARINGS****Harley Davidson Demo Rides**

Public hearing was opened at 5:42 p.m. by Mayor Ruth Jr. Bobby Rock, Outlaw Square, was available to answer questions. Commissioner Martinisko thanked Events Committee for continued discussion. Commissioner Joseph stated his decision of rejecting at the previous meeting was based on waiving the fees. Jason Mook, Deadwood Custom Cycles, supports Harley Davidson Rides. Bobby Rock, Outlaw Square, stated the banner fee will be paid. Todd Weber questioned the sponsorship and spoke against the event. Martinisko stated the town benefits from this event. Jamie Conrad, resident, questioned the fee for renting the lot. Discussion was held concerning the fee resolution and renting of public property. Mike Klamm, resident, spoke against event and mentioned the parking lot was underutilized during Kool Deadwood Nites due to it being reserved, which led to guests parking in residential areas. Jill Weber, resident, spoke against event and mentioned the parking lot was used for participants only during Days of '76 and there was nowhere for guests to park. Hearing closed. Martinisko moved, Johnson seconded to approve use of Welcome Center Lot on Thursday, August 1 at 8:00 a.m. through 10:00 p.m. on Saturday, August 10, will be set up on Pioneer Way side of lot. Roll Call: Aye-Johnson, Martinisko, Struble, Ruth. Nay-Joseph. Motion carried.

**Set**

Struble moved, Martinisko seconded to set public hearing on July 15 for Convention Center Package (off sale) Liquor License for B.Y. Development, Cadillac Jack's at 360 Main Street. Roll Call: Aye-All. Motion carried.

Johnson moved, Martinisko seconded to set public hearing on July 15 for Retail (on-off sale) Malt Beverage and SD Farm Wine and Retail (on-off sale) Wine and Cider Licenses for The Crossings at Spearfish Canyon LLC dba Dave's Deli Delights at 61 Sherman Street. Roll Call: Aye-All. Motion carried.

Martinisko moved, Struble seconded to set public hearing on July 15 for Retail (on-off sale) Malt Beverage and SD Farm Wine License for Boondocks, LLC dba Mr. Goodstores at 622 Main Street. Roll Call: Aye-All. Motion carried.

Martinisko moved, Struble seconded to waive 45-day requirement and set public hearing on July 15 for Outlaw Shootout AAU Wrestling. Roll Call: Aye-All. Motion carried.

Johnson moved, Martinisko seconded to set public hearing on July 15 for Steer Roping Event. Roll Call: Aye-All. Motion carried.

**REGULAR MEETING, JULY 1, 2024**

Set

Joseph moved, Struble seconded to set public hearing on July 15 for the Preacher Smith Deadwood Redemption Day. Roll Call: Aye-All. Motion carried.

Struble moved, Martinisko seconded to set public hearing on July 15 for Fair in the Square. Roll Call: Aye-All. Motion carried.

Johnson moved, Martinisko seconded to set public hearing on July 15 for Black Hills Veterans March. Roll Call: Aye-All. Motion carried.

OLD BUSINESS

Agreement

Finance Officer McKeown spoke about the agreement. Martinisko moved, Joseph seconded to allow Mayor to sign and enter into three year lease (with one option to renew, per contract) with First Gold - 10 devices - \$135,000.00 annually. Roll Call: Aye-All. Motion carried.

NEW BUSINESS

First Reading

McKeown spoke about the supplement. Struble moved, Martinisko seconded to approve first reading of Ordinance #1401 Budget Supplement #4 for 2024. Roll Call: Aye-All. Motion carried.

Resolution

Parking and Transportation Director Lux spoke about the resolution. Martinisko moved, Johnson seconded to approve Resolution 2024-15 Updating Fee Resolution for Parking Permits. Roll Call: Aye-All. Motion carried.

**CITY OF DEADWOOD  
RESOLUTION 2024-15  
A RESOLUTION SETTING FORTH A SCHEDULE OF RATES FOR USE  
BY THE CITY OF DEADWOOD**

WHEREAS, City Ordinances require certain license fees, charges for services, and other designations to be established by resolution;

NOW THEREFORE BE IT RESOLVED THAT the City of Deadwood hereby establishes the following fees and other designations effective July 25, 2024.

**PARKING:**

- Parking Permit Rates:
- Overnight Validation Permit Side Streets..... \$5.00 for 24 hours
- Employee Parking Permit ..... \$25.00/month

Dated this 1st day of July, 2024

ATTEST: CITY OF DEADWOOD  
 /s/ Jessica McKeown, Finance Officer /s/ David Ruth Jr., Mayor

Taxi License

Lux spoke about the 2024 fee increase for a taxi licensed and the city agreed to allow all companies to pay their fees by May 31, 2024. He stated Canyon Cab had paid for 3 out of the 5 licenses but due to the outstanding balance as of June 27, Parking and Transportation recommended Chief of Police to suspend the license. Derrick Lehto, Canyon Cab, stated he has only operated 2 taxis throughout town and that he had paid for 3. Mayor Ruth Jr. spoke about the ordinance for taxi companies. Finance Officer McKeown stated the remaining balance was paid Friday, June 28, 2024. Martinisko moved, Joseph seconded to lift suspension with Canyon Cab for operation in Deadwood. Roll Call: Aye-All. Motion carried.

**REGULAR MEETING, JULY 1, 2024**

Appraisal

Planning, Zoning and Historic Preservation Officer Kuchenbecker spoke about the appraisal. Martinisko moved, Johnson seconded to accept the appraisal report, declare property surplus, and sell to adjacent landowners in the amount of \$4,160.70 plus recording fee. Legally described as the following: Lots MK8 and MK9 legally described as Lots MK8 and MK9 of the Mickelson Trail; being portions of School Lots 23 and 24, M.S. 207 and Lots 1 and 2, Block 79, O.T. Deadwood; all located in the City of Deadwood, Lawrence County, South Dakota. Roll Call: Aye-All. Motion carried.

Hire

Public Works Director Stadler spoke about the project. Martinisko moved, Struble seconded to hire Golden West Technology at a cost of \$21,187.13 to network and install updated hardware for Recreation Center and City Hall for fiber connectivity. ((\$17,581.58 paid by Bed & Booze Professional Services and \$3,605.55 paid by HP Capital Assets.) Roll Call: Aye-All. Motion carried.

INFORMATIONAL ITEMS AND ITEMS FROM CITIZENS

- A. Short term motorcycle parking approved by P & T Committee at 681 Main Street on July 13, 2024 for the HOG Passport Ride.

Resident, Bill Decker, thanked Public Works for all their work.

Resident, Shirlene Joseph, asked if trailers would still be required to be attached to vehicle at the Slag Pile. Mayor Ruth Jr. stated he believes the trailers will be able to unhook to encourage them from utilizing the Sherman Lot to make room for more vehicles.

Attorney Riggins requested Executive Session for legal matters per SDCL 1-25-2(3) and personnel matters per SDCL 1-25(1) with possible action.

ADJOURNMENT

seconded to adjourn the regular session at 5: p.m. and convene into Executive Session for personnel matters per SDCL 1-25-2(1) with possible action. The next regular meeting will be on Monday, July 15, 2024 at 5:00 p.m.

After coming out of executive session at 7:09 p.m.,

Martinisko moved, Johnson seconded to allow staff to process reclamation permit to RCI Construction for Boot Hill Estates and charge ten cents per cubic yard of dirt moved specifically for reclamation purposes, pending staff approval of all permit requirements.

Martinisko moved, Struble seconded to adjourn.

ATTEST: \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_\_  
Jessica McKeown, Finance Officer  
BY: \_\_\_\_\_  
David Ruth Jr., Mayor

Published once at the total approximate cost of \_\_\_\_\_



PACKET: 06703 07-16-24 - COMBINED  
VENDOR SET: 01  
FUND : 101 GENERAL FUND  
DEPARTMENT: N/A NON-DEPARTMENTAL  
BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0585	SD DEPT. OF REVENUE					
		I-07/15/24	101-3000-202	LIQUOR LICENS BEV LIC-DAVE'S DELI,MR GOODSTR	000000	300.00
				DEPARTMENT	NON-DEPARTMENTAL	TOTAL:
						300.00
01-0418	BLACK HILLS PIONEER					
		I-501 - 2024	101-4111-423	PUBLISHING MINUTES - 5/20/24	000000	247.01
		I-502 - 2024	101-4111-423	PUBLISHING ORDINANCE #1399 - ALCOHOL BEV.	000000	53.87
		I-503 - 2024	101-4111-423	PUBLISHING NOH - NAJA BEER-A-THON	000000	13.10
		I-504 - 2024	101-4111-423	PUBLISHING NOH - COMMUNITY PICNIC	000000	13.10
		I-505 - 2024	101-4111-423	PUBLISHING NOH - HARLEY D. RALLY EVENT	000000	14.07
		I-506 - 2024	101-4111-423	PUBLISHING NOH - HARLEY DEMO RIDES	000000	15.53
		I-507 - 2024	101-4111-423	PUBLISHING NOH - HOMECOMING PARADE	000000	13.10
		I-508 - 2024	101-4111-423	PUBLISHING NOH - LABOR DAY CONCERT	000000	16.01
		I-561 - 2024	101-4111-423	PUBLISHING MINUTES - 6/3/24	000000	149.47
		I-597 - 2024	101-4111-423	PUBLISHING NOH - HARLEY D.DEMO RIDES	000000	15.53
01-4625	FIB CREDIT CARDS					
		I-FINANCECCD063024	101-4111-427	TRAVEL MEETINGS WITH ATTYS.	000000	55.49
		I-FINANCECCD063024	101-4111-427	TRAVEL LUNCH AT SDML TRAINING	000000	20.22
				DEPARTMENT 111	COMMISSION	TOTAL:
						626.50
01-2394	GUNDERSON, PALMER, NELS					
		I-133618	101-4141-422	PROFESSIONAL LEGAL SERVICES	000000	1,995.00
				DEPARTMENT 141	ATTORNEY	TOTAL:
						1,995.00
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	101-4142-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	3,086.71
01-3877	MUTUAL OF OMAHA					
		I-001722242254	101-4142-415	GROUP INSURAN LIFE INSURANCE	000000	21.41
01-4625	FIB CREDIT CARDS					
		I-FINANCECCD063024	101-4142-427	TRAVEL LUNCH AT SDML TRAINING - FIN	000000	27.83
		I-FINANCECCD063024	101-4142-427	TRAVEL LUNCH-FIN.STAFF-SDML TRAINING	000000	111.00
01-4711	AMAZON CAPITAL SERVICES					
		I-1V1N-Q1KY-JFCF	101-4142-426	SUPPLIES COPY PAPER,PENS,NOTE PADS-FIN,	000000	67.85
				DEPARTMENT 142	FINANCE	TOTAL:
						3,314.80
01-0429	BLACK HILLS ENERGY					
		I-POWER 06/26/24	101-4192-428	UTILITIES WELCOME SIGN BOULDER CANYON	000000	17.71

PACKET: 06703 07-16-24 - COMBINED  
VENDOR SET: 01  
FUND : 101 GENERAL FUND  
DEPARTMENT: 192 PUBLIC BUILDINGS  
BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0429	BLACK HILLS ENERGY		continued			
		I-POWER 06/26/24	101-4192-428	UTILITIES 0 US HIGHWAY 14A TRAFFIC SIG	000000	49.04
		I-POWER 06/26/24	101-4192-428	UTILITIES SPEED SIGN 1 1/2 MCKINLEY ST	000000	15.00
		I-POWER 06/26/24	101-4192-428	UTILITIES TRAFFIC LIGHTS 1 MCKINLEY ST	000000	25.08
		I-POWER 06/26/24	101-4192-428	UTILITIES 1 MILLER ST	000000	0.00
		I-POWER 06/26/24	101-4192-428	UTILITIES MT MORIAH VIS CNTR	000000	218.68
		I-POWER 06/26/24	101-4192-428	UTILITIES TX BOOTH/BATHROOM MT MORIAH	000000	83.48
		I-POWER 06/26/24	101-4192-428	UTILITIES METHODIST MEM PARK 10 SHINE	000000	25.96
		I-POWER 06/26/24	101-4192-428	UTILITIES SPEED SIGN 101 CHARLES ST	000000	18.95
		I-POWER 06/26/24	101-4192-428	UTILITIES 101 MICKELSON TRAIL	000000	450.48
		I-POWER 06/26/24	101-4192-428	UTILITIES 102 WATER TANK LN	000000	15.24
		I-POWER 06/26/24	101-4192-428	UTILITIES 105 1/2 SHERMAN TRAFFIC LIGHTS	000000	63.66
		I-POWER 06/26/24	101-4192-428-13	UTILITIES - R 105 SHERMAN ST REC CENTER	000000	5,639.60
		I-POWER 06/26/24	101-4192-428	UTILITIES SHERMAN-PINE ST TRAFFIC SIGNAL	000000	29.50
		I-POWER 06/26/24	101-4192-428-04	UTILITIES - C 108 SHERMAN ST CITY HALL	000000	2,816.40
		I-POWER 06/26/24	101-4192-428	UTILITIES TIMMS LANE POLE BLDG	000000	41.09
		I-POWER 06/26/24	101-4192-428	UTILITIES PUMP 119 DENVER AVE	000000	732.94
		I-POWER 06/26/24	101-4192-428	UTILITIES PRESSURE REG STATION 13 CRESCE	000000	64.02
		I-POWER 06/26/24	101-4192-428	UTILITIES 135 SHERMAN ST LIGHTS	000000	25.13
		I-POWER 06/26/24	101-4192-428	UTILITIES 135 WILLIAMS ST LIGHTS	000000	21.79
		I-POWER 06/26/24	101-4192-428-03	UTILITIES - B BALLFIELD 15 CRESCENT ST	000000	415.18
		I-POWER 06/26/24	101-4192-428-06	UTILITIES - D RODEO GROUNDS ARENA	000000	135.89
		I-POWER 06/26/24	101-4192-428-11	UTILITIES - P PARK SHOP 15 CRESCENT ST	000000	303.48
		I-POWER 06/26/24	101-4192-428-06	UTILITIES - D 15 CRESCENT ST RODEO	000000	2,033.90
		I-POWER 06/26/24	101-4192-428-06	UTILITIES - D 15 CRESCENT ST SNOWCROSS	000000	15.00
		I-POWER 06/26/24	101-4192-428	UTILITIES WELCOME SIGN- DWD HILL	000000	16.20
		I-POWER 06/26/24	101-4192-428-09	UTILITIES - H THORPE BLDG 150 SHERMAN	000000	499.32
		I-POWER 06/26/24	101-4192-428-03	UTILITIES - B CONCESSION STAND 16 CRESCENT	000000	75.38
		I-POWER 06/26/24	101-4192-428	UTILITIES 17 PLEASANT ST LIGHTS	000000	25.86
		I-POWER 06/26/24	101-4192-428	UTILITIES 17 RAYMOND ST LIGHTS	000000	18.34
		I-POWER 06/26/24	101-4192-428-15	UTILITIES - T GAYVILLE PUMP 170 BLACKTAIL	000000	15.00
		I-POWER 06/26/24	101-4192-428	UTILITIES 178 SHERMAN ST LIGHTS	000000	86.71
		I-POWER 06/26/24	101-4192-428	UTILITIES PRV 180 CLIFF ST	000000	25.50
		I-POWER 06/26/24	101-4192-428	UTILITIES WELL HOUSE OAKRIDGE CEMETERY	000000	78.29
		I-POWER 06/26/24	101-4192-428	UTILITIES 2 BURNHAM AVE LIGHTS	000000	49.26
		I-POWER 06/26/24	101-4192-428	UTILITIES FLAG 2 MT MORIAH DRIVE	000000	31.84
		I-POWER 06/26/24	101-4192-428	UTILITIES 22 DUDLEY ST LIGHTS	000000	24.95
		I-POWER 06/26/24	101-4192-428-01	UTILITIES - A ADAMS HOUSE INFO CENTER	000000	90.22
		I-POWER 06/26/24	101-4192-428-01	UTILITIES - A ADAMS HOUSE 22 VAN BUREN	000000	347.76
		I-POWER 06/26/24	101-4192-428	UTILITIES 22 WASHINGTON ST LIGHTS	000000	49.17
		I-POWER 06/26/24	101-4192-428	UTILITIES TRAFFIC LIGHS 4 LANE	000000	52.24
		I-POWER 06/26/24	101-4192-428	UTILITIES PRESSURE REDUCTION STN 255 MAI	000000	50.34
		I-POWER 06/26/24	101-4192-428-08	UTILITIES - H INTERPRETIVE CENTER	000000	318.42
		I-POWER 06/26/24	101-4192-428	UTILITIES 301 CLIFF ST	000000	1,061.30
		I-POWER 06/26/24	101-4192-428	UTILITIES 34 LINCOLN AVE LIGHTS	000000	38.46
		I-POWER 06/26/24	101-4192-428	UTILITIES PUMPHOUSE 34 MT MORIAH DR	000000	86.21
		I-POWER 06/26/24	101-4192-428	UTILITIES 368 WILLIAMS ST LIGHTS	000000	23.59
		I-POWER 06/26/24	101-4192-428	UTILITIES WATER HEAT TAPE 37 WATER ST	000000	15.00
		I-POWER 06/26/24	101-4192-428-07	UTILITIES - F FIRE DEPT SIREN MCGOVERN HILL	000000	18.10

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 101 GENERAL FUND

DEPARTMENT: 192 PUBLIC BUILDINGS

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0429	BLACK HILLS ENERGY		continued			
		I-POWER 06/26/24	101-4192-428	UTILITIES REDWOOD TANK MCGOVERN HILL	000000	108.87
		I-POWER 06/26/24	101-4192-428	UTILITIES 398 WILLIAMS ST LIGHTS	000000	23.07
		I-POWER 06/26/24	101-4192-428	UTILITIES PRV STATION 4 DAKOTA ST	000000	55.09
		I-POWER 06/26/24	101-4192-428	UTILITIES 4 MT MORIAH RD LIGHTS	000000	26.32
		I-POWER 06/26/24	101-4192-428-17	UTILITIES - D MUSEUM DAYS 40 CRESCENT ST	000000	2,285.25
		I-POWER 06/26/24	101-4192-428-19	UTILITIES - G 418 CLIFF ST GATEWAY BLDG	000000	35.12
		I-POWER 06/26/24	101-4192-428-10	UTILITIES - L DEADWOOD LIBRARY	000000	344.35
		I-POWER 06/26/24	101-4192-428	UTILITIES 46 FREMONT ST LIGHTS	000000	34.77
		I-POWER 06/26/24	101-4192-428	UTILITIES 49 SHERMAN ST LIGHTS	000000	97.39
		I-POWER 06/26/24	101-4192-428	UTILITIES TRAFFIC SIGNALS & PRK LOT BUIL	000000	65.26
		I-POWER 06/26/24	101-4192-428	UTILITIES 5 SIEVER ST	000000	527.39
		I-POWER 06/26/24	101-4192-428	UTILITIES PUMP 50 PLEASANT ST	000000	18.57
		I-POWER 06/26/24	101-4192-428-02	UTILITIES - A ADAMS MUSEUM 50 SHERMAN ST	000000	507.69
		I-POWER 06/26/24	101-4192-428	UTILITIES 500 1/2 MAIN ST	000000	67.36
		I-POWER 06/26/24	101-4192-428	UTILITIES 501 MAIN ST WELCOME CENTER	000000	930.65
		I-POWER 06/26/24	101-4192-428	UTILITIES 509 WILLIAMS ST LIGHTS	000000	21.29
		I-POWER 06/26/24	101-4192-428	UTILITIES 51 1/2 DUNLOP AVE LIGHTS	000000	18.34
		I-POWER 06/26/24	101-4192-428	UTILITIES WELCOME SIGN-JCT HWY 385 & CLI	000000	17.24
		I-POWER 06/26/24	101-4192-428	UTILITIES WILD BILL STATUE 53 SHERMAN ST	000000	15.37
		I-POWER 06/26/24	101-4192-428	UTILITIES 565 MAIN ST LIGHTS	000000	40.32
		I-POWER 06/26/24	101-4192-428-15	UTILITIES - T TROLLEY BARN 60 DUNLOP AVE	000000	297.84
		I-POWER 06/26/24	101-4192-428	UTILITIES 610 BROADWAY ST	000000	76.33
		I-POWER 06/26/24	101-4192-428-14	UTILITIES - S CITY SHOP 62 DUNLOP AVE	000000	664.98
		I-POWER 06/26/24	101-4192-428	UTILITIES 62 FOREST AVE LIGHTS	000000	29.56
		I-POWER 06/26/24	101-4192-428	UTILITIES BROADWAY PARKING RAMP	000000	746.24
		I-POWER 06/26/24	101-4192-428	UTILITIES 65 SHERMAN ST	000000	1,358.18
		I-POWER 06/26/24	101-4192-428	UTILITIES 7 1/2 PECK ST LIGHTS	000000	28.42
		I-POWER 06/26/24	101-4192-428	UTILITIES 7 1/2 SAMPSON ST LIGHTS	000000	32.94
		I-POWER 06/26/24	101-4192-428	UTILITIES CORNER TRAFFIC SIGNAL LIGHTS	000000	75.74
		I-POWER 06/26/24	101-4192-428-24	UTILITIES - O 703 MAIN ST OUTLAW SQUARE	000000	667.72
		I-POWER 06/26/24	101-4192-428-07	UTILITIES - F FIRE HALL 737 MAIN ST	000000	584.86
		I-POWER 06/26/24	101-4192-428-12	UTILITIES - P DWD PAVILION 767 MAIN ST	000000	41.71
		I-POWER 06/26/24	101-4192-428-12	UTILITIES - P 737 MAIN ST	000000	9.97
		I-POWER 06/26/24	101-4192-428	UTILITIES 767 MAIN ST	000000	19.94
		I-POWER 06/26/24	101-4192-428	UTILITIES SAMPSON ST PUMP	000000	19.00
		I-POWER 06/26/24	101-4192-428	UTILITIES 8 DAKOTA ST LIGHTS	000000	20.39
		I-POWER 06/26/24	101-4192-428	UTILITIES 9 CEMETERY ST LIGHTS	000000	16.57
		I-POWER 06/26/24	101-4192-428	UTILITIES WELCOME SIGN UPPER MAIN	000000	17.49
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	101-4192-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	3,086.71
01-0539	LEAD-DEADWOOD SANITARY					
		I-07/02/24 CONSUMPT	101-4192-428-15	UTILITIES - T DEADWOOD-CITY TROLLEY BARN	000000	22.00
		I-07/02/24 CONSUMPT	101-4192-428-07	UTILITIES - F DEADWOOD-CITY FIRE DEPT	000000	26.32
		I-07/02/24 CONSUMPT	101-4192-428-09	UTILITIES - H HOMESTAKE ADAMS RESEARCH CNTR	000000	22.00
		I-07/02/24 CONSUMPT	101-4192-428-22	UTILITIES - M DEADWOOD CITY OF-MT MORIAH	000000	22.00
		I-07/02/24 CONSUMPT	101-4192-428-22	UTILITIES - M DEADWOOD CITY OF-MT MORIAH	000000	0.00

PACKET: 06703 07-16-24 - COMBINED  
VENDOR SET: 01  
FUND : 101 GENERAL FUND  
DEPARTMENT: 192 PUBLIC BUILDINGS  
BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0539	LEAD-DEADWOOD SANITARY	continued				
		I-07/02/24	CONSUMPT 101-4192-428-10	UTILITIES - L DEADWOOD-CITY LIBRARY	000000	22.00
		I-07/02/24	CONSUMPT 101-4192-428-19	UTILITIES - G DEADWOOD GATEWAY PARK RESTRMS	000000	22.00
		I-07/02/24	CONSUMPT 101-4192-428-06	UTILITIES - D GRANDSTAND-RODEO GROUNDS-DWD	000000	22.00
		I-07/02/24	CONSUMPT 101-4192-428-18	UTILITIES - F DEADWOOD CITY-FERGUSON FIELD	000000	22.00
		I-07/02/24	CONSUMPT 101-4192-428-14	UTILITIES - S DEADWOOD-CITY PUBLIC WORKS	000000	27.44
		I-07/02/24	CONSUMPT 101-4192-428-11	UTILITIES - P PARKS SHOP-DEADWOOD	000000	22.00
		I-07/02/24	CONSUMPT 101-4192-428-03	UTILITIES - B DEADWOOD-CITY-BASEBALL FIELDS	000000	74.15
		I-07/02/24	CONSUMPT 101-4192-428	UTILITIES DEADWOOD-CITY GORDON PARK	000000	22.00
		I-07/02/24	CONSUMPT 101-4192-428-02	UTILITIES - A DEADWOOD-CITY ADAMS MUSEUM	000000	29.06
		I-07/02/24	CONSUMPT 101-4192-428-01	UTILITIES - A DEADWOOD - CITY ADAMS HOUSE	000000	54.89
		I-07/02/24	CONSUMPT 101-4192-428-04	UTILITIES - C DEADWOOD - CITY HALL	000000	41.40
		I-07/02/24	CONSUMPT 101-4192-428-08	UTILITIES - H DEADWOOD HISTORY CENTER	000000	52.43
		I-07/02/24	CONSUMPT 101-4192-428-13	UTILITIES - R DEADWOOD-CITY REC CENTER	000000	322.31
		I-07/02/24	CONSUMPT 101-4192-428-24	UTILITIES - O DEADWOOD CITY OUTLAW SQUARE	000000	29.99
		I-07/02/24	CONSUMPT 101-4192-428-21	UTILITIES - W WELCOME CENTER-DEADWOOD CITY	000000	185.28
		I-07/02/24	CONSUMPT 101-4192-428-17	UTILITIES - D DAYS OF 76 MUSEUM	000000	152.47
01-1370	TEMPERATURE TECHNOLOGY,					
		I-27317	101-4192-425-02	REPAIRS - ADA SERVICE CONDENSING UNIT/AD MUS	000000	240.00
01-1502	BLACK HILLS CHEMICAL					
		I-273094	101-4192-426	SUPPLIES SOAP-TOWEL-TP-DISPENSER/PB	000000	1,701.74
01-1558	ECOLAB PEST ELIMINATION					
		I-5773108	101-4192-422-04	PROFESSIONAL RODENT PROGRAM/CITY HALL	000000	182.25
		I-5773112	101-4192-422-21	PROFESSIONAL ANT PROGRAM/WELCOME CENTER	000000	119.19
01-1626	SERVALL UNIFORM AND LIN					
		I-06/11/24	INVOICES 101-4192-426-11	SUPPLIES - PA PARKS DEPT / 0926659	000000	41.94
		I-06/11/24	INVOICES 101-4192-426-14	SUPPLIES - ST STREET DEPT / 0926661	000000	86.18
		I-06/11/24	INVOICES 101-4192-426-15	SUPPLIES - TR TROLLEY/0926660	000000	106.00
		I-06/11/24	INVOICES 101-4192-426-07	SUPPLIES - FI FIRE HALL / 0926644	000000	41.71
		I-06/11/24	INVOICES 101-4192-422-10	PROFESSIONAL LIBRARY / 0926646	000000	39.03
		I-06/13/24	INVOICES 101-4192-426-04	SUPPLIES - CI CITY HALL - 0927804	000000	183.52
		I-06/13/24	INVOICES 101-4192-426-13	SUPPLIES - RE REC CENTER / 0927805	000000	270.62
		I-06/13/24	INVOICES 101-4192-426-08	SUPPLIES - HI HISTORY / 0927803	000000	64.22
		I-06/13/24	INVOICES 101-4192-426-21	SUPPLIES - WE WELCOME CENTER / 0927802	000000	39.78
		I-06/25/24	INVOICES 101-4192-426-11	SUPPLIES - PA PARKS DEPT / 0932047	000000	41.94
		I-06/25/24	INVOICES 101-4192-426-14	SUPPLIES - ST STREET DEPT / 0932049	000000	86.18
		I-06/25/24	INVOICES 101-4192-426-15	SUPPLIES - TR TROLLEY/0932048	000000	106.00
		I-06/25/24	INVOICES 101-4192-426-07	SUPPLIES - FI FIRE HALL / 0932030	000000	41.71
		I-06/25/24	INVOICES 101-4192-422-10	PROFESSIONAL LIBRARY / 0932032	000000	39.03
		I-06/27/24	INVOICES 101-4192-426-04	SUPPLIES - CI CITY HALL - 0933223	000000	183.52
		I-06/27/24	INVOICES 101-4192-426-13	SUPPLIES - RE REC CENTER / 0933224	000000	270.62
		I-06/27/24	INVOICES 101-4192-426-08	SUPPLIES - HI HISTORY / 0933222	000000	64.22
		I-06/27/24	INVOICES 101-4192-426-21	SUPPLIES - WE WELCOME CENTER / 0933221	000000	39.78
01-3151	KONE CHICAGO					

PACKET: 06703 07-16-24 - COMBINED  
VENDOR SET: 01  
FUND : 101 GENERAL FUND  
DEPARTMENT: 192 PUBLIC BUILDINGS  
BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-3151	KONE CHICAGO	continued				
		I-871401953	101-4192-422-17	PROFESSIONAL- JUNE ELEVATOR MAINT/DAYS MUS	000000	192.96
01-3342	RASMUSSEN MECHANICAL SE					
		I-SRV003600	101-4192-425-13	REPAIRS - REC COMPRESSOR REPAIRS/REC CENTE	000000	223.75
		I-SRV113656	101-4192-425-17	REPAIRS-DAYS REPAIR WATER HEATER/DAYS CAMPG	000000	290.00
		I-SRV113657	101-4192-425-02	REPAIRS - ADA REPAIRS TO COMPRESSOR/AD MUS	000000	223.75
01-3877	MUTUAL OF OMAHA					
		I-001722242254	101-4192-415	GROUP INSURAN LIFE INSURANCE	000000	14.63
01-4625	FIB CREDIT CARDS					
		I-06/30/24 PUB BLDGS	101-4192-426	SUPPLIES PEPPER SPRAY/PUB BLDGS	000000	36.46
		I-06/30/24 PUB BLDGS	101-4192-433-04	IMPROVEMENTS- ESPRESSO COFFE MACHINE/CITY HA	000000	2,018.75
01-4711	AMAZON CAPITAL SERVICES					
		I-1V1N-Q1KY-JFCF	101-4192-426-04	SUPPLIES - CI COFFEE - CITY HALL	000000	71.88
01-4957	ONSITE FIRST AID, LLC					
		I-4177	101-4192-422-11	PROFESSIONAL FIRST AID SUPPLIES/PARKS	000000	58.23
		I-4178	101-4192-422-14	PROFESSIONAL FIRST AID SUPPLIES/STREETS	000000	94.79
		I-4179	101-4192-422-15	PROFESSIONAL FIRST AID SUPPLIES/TROLLEY	000000	17.43
01-5276	PROTEX CENTRAL INC					
		I-153766	101-4192-426-04	SUPPLIES - CI 12 V DC BATTERY 7 AMP HOUR/CIT	000000	64.00
					DEPARTMENT 192 PUBLIC BUILDINGS	TOTAL: 37,878.51
01-0510	GOLDEN WEST TECHNOLOGIE					
		I-426198	101-4193-422	PROFESSIONAL EMAIL SECUR,BKUP,WKSTNS	000000	2,701.48
		I-426438	101-4193-422	PROFESSIONAL MICROSOFT 365 ANNUAL LICENSES	000000	6,882.00
01-4711	AMAZON CAPITAL SERVICES					
		I-1V1N-Q1KY-JFCF	101-4193-426	SUPPLIES WEB CAM - FINANCE	000000	69.99
01-5277	TIMECLOCK PLUS, LLC					
		I-INV00353265	101-4193-422	PROFESSIONAL IMPLEMENT SVCS,ANNUAL LIC CHG	000000	10,016.05
		I-INV00353266	101-4193-422	PROFESSIONAL EMPLOYEE LIC'S,IMPLEMENT SVCS	000000	2,962.50
					DEPARTMENT 193 COMPUTER SERVICE	TOTAL: 22,632.02
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	101-4210-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	13,987.26
01-0804	SCOTT PETERSON MOTORS					
		I-6014300/1	101-4210-425	REPAIRS MAINT.ON '19 DURANGO - POLICE	000000	198.00

7/12/2024 11:39 AM  
 PACKET: 06703 07-16-24 - COMBINED  
 VENDOR SET: 01  
 FUND : 101 GENERAL FUND  
 DEPARTMENT: 210 POLICE  
 BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-1424	SOUTHSIDE SERVICE					
		I-0061517	101-4210-425	REPAIRS TIRE REPAIR-2020 DURANGO/ PD	000000	40.00
01-1826	FIRST NET					
		I-287304791844X0624	101-4210-422	PROFESSIONAL MDT POLICE CARS - JUNE	000000	240.24
01-1827	MS MAIL					
		I-14627	101-4210-422	PROFESSIONAL PRINT RECEIPT BOOKS - POLICE	000000	45.00
01-3877	MUTUAL OF OMAHA					
		I-001722242254	101-4210-415	GROUP INSURAN LIFE INSURANCE	000000	105.60
01-4317	VIGILANT BUSINESS SOLUT					
		I-2635	101-4210-422	PROFESSIONAL SCREENING	000000	82.25
01-4625	FIB CREDIT CARDS					
		I-POLICECCD 6/30/24	101-4210-427	TRAVEL FUEL TO PIERRE/TRAINING	000000	33.97
		I-POLICECCD 6/30/24	101-4210-427	TRAVEL FUEL TO PIERRE/TRAINING	000000	33.27
01-5034	STURGIS RESPONDER SUPPL					
		I-3971	101-4210-426	SUPPLIES NAME PLATES - POLICE	000000	105.60
		I-3973	101-4210-426	SUPPLIES UNIFORM GLOVES,PANTS - POLICE	000000	122.94
DEPARTMENT 210 POLICE					TOTAL:	14,994.13
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	101-4221-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	639.38
01-0737	DAKOTA BATTERY AND ELEC					
		I-91159	101-4221-425	REPAIRS STARTER - ENG#2 - FIRE DPT	000000	425.58
01-2594	DEADWOOD FIRE DEPARTMEN					
		I-06/15/24	101-4221-422	PROFESSIONAL STAFFING WILD BILL DAYS- FIRE	000000	1,000.00
01-3877	MUTUAL OF OMAHA					
		I-001722242254	101-4221-415	GROUP INSURAN LIFE INSURANCE	000000	6.60
01-3977	ACE HARDWARE OF LEAD					
		I-38102	101-4221-426	SUPPLIES KEROSENE/PRESSURE WASHER -FD	000000	57.56
01-4108	ALEX AIR APPARATUS 2, L					
		I-INV-49915	101-4221-434	MACHINERY/EQU FIRE DEPT.GEAR - SD PPE GRANT	000000	13,465.42
		I-INV-50333	101-4221-434	MACHINERY/EQU FIRE-BOOTS,GLOVES-SD PPE GRANT	000000	1,185.00
01-4317	VIGILANT BUSINESS SOLUT					
		I-2635	101-4221-422	PROFESSIONAL SCREENING	000000	197.25
		I-2702	101-4221-422	PROFESSIONAL SCREENING	000000	341.50
DEPARTMENT 221 FIRE DEPARTMENT ADMINIS					TOTAL:	17,318.29

7/12/2024 11:39 AM  
 PACKET: 06703 07-16-24 - COMBINED  
 VENDOR SET: 01  
 FUND : 101 GENERAL FUND  
 DEPARTMENT: 232 BUILDING INSPECTION  
 BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	101-4232-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	639.38
01-3877	MUTUAL OF OMAHA	I-001722242254	101-4232-415	GROUP INSURAN LIFE INSURANCE	000000	6.60
01-4625	FIB CREDIT CARDS	I-06/30/24 PUB BLDGS	101-4232-422	PROFESSIONAL USPS CERTIFIED/BLDG INSPECTOR	000000	9.21
01-5066	LOOKOUT PLAN + CODE CON	I-24053	101-4232-422	PROFESSIONAL PLAN REVIEW 61 SHERMAN DELI	000000	62.40
		I-24056	101-4232-422	PROFESSIONAL PLAN REVIEWS OGGIES-THE LODGE	000000	915.20
		I-24056	101-4232-422	PROFESSIONAL PLAN REVIEWS 760 STAGE RUN	000000	603.44
DEPARTMENT 232 BUILDING INSPECTION TOTAL:						2,236.23
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	101-4310-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	5,660.71
01-0598	SUMMIT SIGNS AND SUPPLY	I-65849	101-4310-426	SUPPLIES (6) TELESPAR POST 2X2X12/STRTS	000000	582.00
01-0782	JACOBS PRECISION WELDIN	I-31220	101-4310-426	SUPPLIES 6" ROUND TUBE CUT 8 @ 3"/STRTS	000000	57.49
01-0866	BORDER STATES INDUSTRIE	I-928644137	101-4310-426	SUPPLIES 3000 POLY MULETAPE/STREETS	000000	167.35
01-1424	SOUTHSIDE SERVICE	I-8546	101-4310-425	REPAIRS TIRE REPAIR/STREETS	000000	30.00
01-1500	A & B WELDING	I-01093561	101-4310-426	SUPPLIES NOS-ARGON, CARBON DIOX/STRTS	000000	99.22
01-1515	RAPID DELIVERY	I-5041832	101-4310-422	PROFESSIONAL DELIVERY FEE/BUTLER MACH-STRTS	000000	20.48
01-1891	DIAMOND VOGEL PAINT CEN	I-775264285	101-4310-426	SUPPLIES RED FED ACR TRF FD/STRTS	000000	185.00
01-3314	CENTURY BUSINESS PRODUC	I-739892	101-4310-426	SUPPLIES HP/PZ CONTRACT 06/2024	000000	64.23
01-3877	MUTUAL OF OMAHA	I-001722242254	101-4310-415	GROUP INSURAN LIFE INSURANCE	000000	41.03
01-4625	FIB CREDIT CARDS	I-POLICECCD 6/30/24	101-4310-427	TRAVEL NASRO SCHOOL - PAPOUSEK	000000	400.00
DEPARTMENT 310 STREETS TOTAL:						7,307.11



PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 101 GENERAL FUND

DEPARTMENT: 320 SANITATION

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-4630	SANDER SANITATION SERVI					
		I-06/30/24	XTRA SRV 101-4320-422	PROFESSIONAL JUNE EXTRA SUMMER DUMPSTERS	000000	1,500.00
		I-06/30/24	RES GARB 101-4320-422	PROFESSIONAL JUNE RESIDENTIAL GARBAGE SRVCS	000000	12,834.16
				DEPARTMENT 320 SANITATION	TOTAL:	14,334.16
01-5252	BLACK HILLS SANITATION					
		I-1079	101-4370-422	PROFESSIONAL MONTHLY PORTAPOTTY/OAKRIDGE	000000	140.00
				DEPARTMENT 370 OAKRIDGE CEMETERY	TOTAL:	140.00
01-0213	TRUGREEN CHEM-LAWN					
		I-195712782	101-4520-422	PROFESSIONAL LAWN SERVICES/GORDON PARK	000000	188.19
		I-195712783	101-4520-422	PROFESSIONAL LAWN SERVICES/BULLOCK PARK	000000	97.58
		I-195712784	101-4520-422	PROFESSIONAL LAWN SERVICES/FERGUSON FIELD	000000	493.61
		I-195712785	101-4520-422	PROFESSIONAL LAWN SERVICES/SOFTBALL FIELDS	000000	518.97
		I-195712786	101-4520-422	PROFESSIONAL LAWN SERVICES/RIVERWALK	000000	560.78
		I-195712787	101-4520-422	PROFESSIONAL LAWN SERVICES/PLUMA PARK	000000	161.12
01-0412	AMERICAN ENGINEERING TE					
		I-INV-201404	101-4520-422-01	PROF SERV- FE WHITEWOOD CRK RESTORATION	000000	829.00
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	101-4520-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	5,324.54
01-0467	CULLIGAN OF THE BLACK H					
		I-0021072	101-4520-422	PROFESSIONAL (12) 5 GAL BOTTLE WATER/PARKS	000000	86.40
01-0653	FASTENAL COMPANY					
		I-SDRA1137188	101-4520-426	SUPPLIES ZINC HEX LAG-USS FW/PARKS	000000	240.72
01-0776	ALBERTSON ENGINEERING,					
		I-20601	101-4520-422-01	PROF SERV- FE WHITEWOOD CRK RESTOR/COMF INN	000000	7,284.94
		I-20623	101-4520-422-01	PROF SERV- FE WHITEWOOD CRK, ADDENDUM #4	000000	2,786.34
		I-20624	101-4520-422-01	PROF SERV- FE WHITEWOOD CRK,ADDENDUM #5	000000	675.00
		I-20626	101-4520-422-01	PROF SERV- FE WHITEWOOD CRK,ADDENDUM 3	000000	4,963.97
01-1424	SOUTHSIDE SERVICE					
		I-8559	101-4520-425	REPAIRS VALVE STEM REPAIR/PARKS	000000	35.00
01-1798	CHAINSAW CENTER/DAKOTA					
		I-1-1802752	101-4520-425	REPAIRS REPAIRS TO STIHL FS 131/PARKS	000000	159.80
01-3877	MUTUAL OF OMAHA					
		I-001722242254	101-4520-415	GROUP INSURAN LIFE INSURANCE	000000	42.90
01-3977	ACE HARDWARE OF LEAD					

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 101 GENERAL FUND

DEPARTMENT: 520 PARKS

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-3977	ACE HARDWARE OF LEAD	continued				
		I-037911	101-4520-426	SUPPLIES PLANT FD ALL PURP/PARKS	000000	17.99
		I-038012	101-4520-426	SUPPLIES LEAF RAKE HANDLE WD 54"/PARKS	000000	8.99
01-4317	VIGILANT BUSINESS SOLUT					
		I-2635	101-4520-422	PROFESSIONAL SCREENING	000000	117.00
		I-2702	101-4520-422	PROFESSIONAL SCREENING	000000	56.50
01-4345	ULINE					
		I-179470151	101-4520-426	SUPPLIES NYLON ROPE-SISAL TWINE/PARKS	000000	284.23
01-4625	FIB CREDIT CARDS					
		I-06/30/24 PUB WORKS	101-4520-426	SUPPLIES 20'X30' PVC TENT/PARKS	000000	1,499.99
		I-063024	101-4520-422-01	PROF SERV- FE FETERL -RYAN RD HLDNG POND	000000	31.00
		I-063024	101-4520-422	PROFESSIONAL BROKEN BOOT-FULLER TRL EASEMEN	000000	31.00
		I-FINANCECCD063024	101-4520-426	SUPPLIES WORK SESSION SNACKS	000000	52.90
01-4631	CAPFIRST EQUIPMENT FINA					
		I-33405	101-4520-434	MACHINERY/EQU 2020 CAT906 LOADER/PARKS	000000	13,365.43
01-4711	AMAZON CAPITAL SERVICES					
		I-1V1N-Q1KY-QYHV	101-4520-426	SUPPLIES CINCH STRAPS-LOCK PINS/PARKS	000000	70.15
01-5052	AVID4 ENGINEERING					
		I-23-123.13	101-4520-422	PROFESSIONAL GIS TECH SRVC RETAINER	000000	187.50
					DEPARTMENT 520 PARKS	TOTAL: 40,171.54
01-0418	BLACK HILLS PIONEER					
		I-516 - 2024	101-4640-423	PUBLISHING NOH - BRD OF ADJSTMT/KINKLER	000000	24.26
		I-517 - 2024	101-4640-423	PUBLISHING NOH - BRD OF ADJSTMT/KUCERA	000000	24.75
		I-563 - 2024	101-4640-423	PUBLISHING NOH - BRD OF ADJSTMT/BAHR	000000	28.15
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	101-4640-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	639.38
01-3314	CENTURY BUSINESS PRODUC					
		I-739892	101-4640-428	UTILITIES HP/PZ CONTRACT 06/2024	000000	64.22
01-3877	MUTUAL OF OMAHA					
		I-001722242254	101-4640-415	GROUP INSURAN LIFE INSURANCE	000000	6.60
					DEPARTMENT 640 PLANNING AND ZONING	TOTAL: 787.36
					FUND 101 GENERAL FUND	TOTAL: 164,036.05

PACKET: 06703 07-16-24 - COMBINED  
 VENDOR SET: 01  
 FUND : 206 LIBRARY FUND  
 DEPARTMENT: 550 LIBRARY  
 BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0157	MICROMARKETING LLC	I-515109	206-4550-434	COLLECTION DE LARGE PRINT BOOKS - LIBRARY	000000	395.84
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	206-4550-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	639.38
01-0973	PETTY CASH- LIBRARY	I-07/08/24 - LIBRARY	206-4550-424	PROGRAMMING PROGRAM SUPPLIES/FAM \$-LIBRARY	000000	48.90
01-1562	MIDWEST TAPE, LLC	I-505682620	206-4550-434	COLLECTION DE DVDs - LIBRARY	000000	67.47
		I-505703056	206-4550-434	COLLECTION DE DIGITAL COLLECTION - LIBRARY	000000	114.94
01-3877	MUTUAL OF OMAHA	I-001722242254	206-4550-415	GROUP INSURAN LIFE INSURANCE	000000	4.29
01-3887	BLACK HILLS LIBRARY CON	I-230525-01 7/2/24	206-4550-429	TECHNOLOGY/HO KOHA FEE 2024-25	000000	566.71
01-4625	FIB CREDIT CARDS	I-FINANCECCD-6/30/24	206-4550-434	COLLECTION DE SUBSCRIPTION-BH PIONEER/LIBRAR	000000	70.42
		I-FINANCECCD-6/30/24	206-4550-434	COLLECTION DE SUBSCRIPTION-BOOKLIST/LIBRARY	000000	184.95
01-4711	AMAZON CAPITAL SERVICES	C-1KYT-T6L3-MM9N	206-4550-434	COLLECTION DE CREDIT FOR DVD - LIBRARY	000000	14.03-
		I-14GV-1VJ4-NQMD	206-4550-429	TECHNOLOGY/HO TONER FOR PRINTERS - LIBRARY	000000	366.23
		I-14GV-1VJ4-NQMD	206-4550-424	PROGRAMMING PROGRAM SUPPLIES - LIBRARY	000000	45.23
		I-14GW-WC9W-RKRG	206-4550-434	COLLECTION DE DVDs - LIBRARY	000000	64.66
		I-14GW-WC9W-RKRG	206-4550-434	COLLECTION DE BOOKS - LIBRARY	000000	74.18
		I-1YTH-F31H-F9NQ	206-4550-434	COLLECTION DE REPLACMT-CHILDREN'S BOOKS-LIB	000000	52.79
01-4722	ASSOCIATION FOR RURAL &	I-72855	206-4550-422	PROFESSIONAL ANNUAL MEMBERSHIP - LIBRARY	000000	50.00
					DEPARTMENT 550 LIBRARY	TOTAL: 2,731.96
					FUND 206 LIBRARY FUND	TOTAL: 2,731.96

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 209 BED & BOOZE FUND

DEPARTMENT: 510 REC CENTER

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0418	BLACK HILLS PIONEER	I-118508	209-4510-423	PUBLISHING AD IN JACK MCCALL PROGRAM/REC	000000	147.00
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	209-4510-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	959.07
01-1502	BLACK HILLS CHEMICAL	I-273074	209-4510-426	SUPPLIES NITR GLOVE-DISINF-TP-TISS/REC	000000	381.46
01-2645	HAWKINS INC	I-6797882	209-4510-426	SUPPLIES BTD ORP-BTD PH SENSORS/REC	000000	650.60
01-3151	KONE CHICAGO	I-871401952	209-4510-422	PROFESSIONAL JUNE ELEVATOR MAINT/REC CENTER	000000	185.53
01-3877	MUTUAL OF OMAHA	I-001722242254	209-4510-415	GROUP INSURAN LIFE INSURANCE	000000	18.65
01-4317	VIGILANT BUSINESS SOLUT	I-2702	209-4510-422	PROFESSIONAL SCREENING	000000	56.50
01-4625	FIB CREDIT CARDS	I-06/30/24 PUB WORKS	209-4510-426	SUPPLIES (8) ADIRONDACK CHAIRS/REC CENT	000000	303.84
01-4711	AMAZON CAPITAL SERVICES	I-1N6H-G77P-19HR	209-4510-426	SUPPLIES EXERCISE HANDLES/REC CENTER	000000	35.56
					DEPARTMENT 510 REC CENTER	TOTAL: 2,738.21
01-0475	DEADWOOD CHAMBER & VISI	I-07/09/24	209-4980-422	PROFESSIONAL 7/15/24 BILL LIST - B&B	000000	10,416.35
		I-07/09/24	209-4980-422	PROFESSIONAL 7/15/24 BILL LIST-EVENT COMPLX	000000	5,606.25
					DEPARTMENT 980 SPECIAL EVENTS	TOTAL: 16,022.60
					FUND 209 BED & BOOZE FUND	TOTAL: 18,760.81

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 211 BID #9

DEPARTMENT: 630 BID #9

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-4576	DEADWOOD CHAMBER - OUTL	I-07/08/24	211-4630-423	MARKETING BID #9 FUNDING	000000	25,000.00
					DEPARTMENT 630 BID #9	TOTAL: 25,000.00
					FUND 211 BID #9	TOTAL: 25,000.00

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 213 BID #1-6 (Business Imprv)

DEPARTMENT: 630 BID

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0475	DEADWOOD CHAMBER & VISI	I-07/09/24	213-4630-423	MARKETING 7/15/24 BILL LIST - BID 1-6	000000	51,909.30
					DEPARTMENT 630 BID	TOTAL: 51,909.30
					FUND 213 BID #1-6 (Business Imprv)	TOTAL: 51,909.30

PACKET: 06703 07-16-24 - COMBINED  
 VENDOR SET: 01  
 FUND : 214 BID #7-OCCUPANCY TAX  
 DEPARTMENT: 630 BID #7  
 BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0475	DEADWOOD CHAMBER & VISI	I-07/09/24	214-4630-423	MARKETING 7/15/24 BILL LIST - BID 7/KDN	000000	14,586.97
DEPARTMENT 630 BID #7						TOTAL: 14,586.97
FUND 214 BID #7-OCCUPANCY TAX						TOTAL: 14,586.97



PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 215 HISTORIC PRESERVATION

DEPARTMENT: 572 HP VISITOR MGMT AND INFOR

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT	
01-0475	DEADWOOD CHAMBER & VISI						
		I-072424	215-4572-215	VISITOR MGMT HISTORY & INFO CNTR	000000	17,528.03	
		I-072424	215-4572-210	VISITOR MGMT HPC MARKETING	000000	24,083.05	
01-0568	TDG COMMUNICATIONS						
		I-18409	215-4572-235	VISITOR MGMT WALKING TOUR BROCHURE	000000	1,250.00	
01-3060	QUIK SIGNS						
		I-45241	215-4572-235	VISITOR MGMT PRESIDENTIAL BC UTILITY WRAP	000000	398.27	
		I-46255	215-4572-235	VISITOR MGMT DAYS OF 76 INTERP SIGNS	000000	307.05	
01-5178	LEGENDARY ELECTRIC LLC						
		I-4270	215-4572-235	VISITOR MGMT TOOTSIE SIGN	000000	2,142.86	
DEPARTMENT 572 HP VISITOR MGMT AND INFOR						TOTAL:	45,709.26
01-0578	TWIN CITY HARDWARE & LU						
		I-2406-000642	215-4573-335	HIST. INTERP. STEEL WOOL	000000	4.49	
		I-2406-002085	215-4573-335	HIST. INTERP. HARWOOD DOWEL	000000	14.98	
		I-2406-002475	215-4573-335	HIST. INTERP. SANDPAPER/LAQUER/BRUSHES	000000	84.60	
01-1514	RAPID CITY JOURNAL SUBS						
		I-060424	215-4573-325	HIST. INTERP. RAPID CITY JOURNAL SUBSC.	000000	126.39	
01-2014	TOMS, DON						
		I-070524	215-4573-335	HIST. INTERP. 1910 TOWN LOTS PT 1	000000	600.00	
01-2022	BOEN, RENEE						
		I-072024.01	215-4573-335	HIST. INTERP. CONSULTING SERVICES 06.2024	000000	960.00	
01-3130	MIDWEST ART CONSERVATIO						
		I-070124	215-4573-335	HIST. INTERP. 2024 ANNUAL MBRSH	000000	50.00	
01-3314	CENTURY BUSINESS PRODUC						
		I-739891	215-4573-335	HIST. INTERP. ARCHIVES CONTRACT 06/2024	000000	29.54	
01-3597	LEAD-DEADWOOD ARTS CENT						
		I-214	215-4573-335	HIST. INTERP. COIN MOUNT	000000	90.00	
DEPARTMENT 573 HP HISTORIC INTERPRETATIO						TOTAL:	1,960.00
01-0429	BLACK HILLS ENERGY						
		I-POWER 06/26/24	215-4575-505-04	85 CHARLES ST 85 CHARLES ST	000000	15.00	
		I-POWER 06/26/24	215-4575-505-04	85 CHARLES ST FEES AND ADJUSTMENTS	000000	20.00	
01-0578	TWIN CITY HARDWARE & LU						
		I-2406-003576	215-4575-500	GRANT/LOAN CE 2" NAILS,HOUSE WRAP-JIM CLARK	000000	329.98	

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 215 HISTORIC PRESERVATION

DEPARTMENT: 575 HP DEADWOOD GRANT AND LOA

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0776	ALBERTSON ENGINEERING,					
		I-20609	215-4575-515	GRANT/LOAN RE 34/35 JACKSON RW	000000	4,006.25
		I-20613	215-4575-505-04	85 CHARLES ST 85 CHARLES FOUNDATION	000000	2,287.50
		I-20617	215-4575-515	GRANT/LOAN RE 33.5 JACKSON RW	000000	350.00
		I-20622	215-4575-515	GRANT/LOAN RE 74 VAN BUREN RW	000000	848.69
01-3857	DAN'S DUMPSTER SERVICE					
		I-45616	215-4575-505-04	85 CHARLES ST 85 CHARLES CLEAN-UP	000000	400.00
DEPARTMENT 575 HP DEADWOOD GRANT AND LOA TOTAL:						8,257.42
01-0039	SD STATE HISTORICAL SOC					
		I-HP2024-01	215-4576-640	PROFES. SERV. SD STATE HIST SOCIETY FUNDS	000000	70,000.00
01-0510	GOLDEN WEST TECHNOLOGIE					
		I-426198	215-4576-600	PROFES. SERV. OFFSITE BKUP & WKSTNS - HP	000000	1,015.00
01-0776	ALBERTSON ENGINEERING,					
		I-20621	215-4576-600	PROFES. SERV. WELCOME CNTR TRAIL	000000	3,313.20
01-2394	GUNDERSON, PALMER, NELS					
		I-133618	215-4576-620	PROFES. SERV. LEGAL SERVICES	000000	1,995.68
01-3060	QUIK SIGNS					
		I-45241	215-4576-630	PROFES. SERV. PRESIDENTIAL BC UTILITY WRAP	000000	398.28
01-5052	AVID4 ENGINEERING					
		I-23-123.13	215-4576-600	PROFES. SERV. GIS TECH SRVC RETAINER	000000	100.00
DEPARTMENT 576 HP PROFESSIONAL SERVICES TOTAL:						76,822.16
01-0578	TWIN CITY HARDWARE & LU					
		I-2406-001209	215-4577-750	CAPITAL ASSET FASTENERS	000000	4.20
		I-2406-003128	215-4577-750	CAPITAL ASSET RUBBER SWIVEL CASTERS	000000	21.96
01-0776	ALBERTSON ENGINEERING,					
		I-20610	215-4577-775	CAPITAL ASSET 10 DENVER RW	000000	250.00
		I-20620	215-4577-755	CAPITAL ASSET TAYLOR ST SIDEWALK/RW RECON	000000	1,825.00
		I-20629	215-4577-755	CAPITAL ASSET 458 WILLIAMS RW	000000	250.00
01-0782	JACOBS PRECISION WELDIN					
		I-31227	215-4577-735	CAPITAL ASSET RODEO GROUNDS CHUTE REPAIR	000000	29.14
01-3366	ROGERS CONSTRUCTION, IN					
		I-002	215-4577-775	CAPITAL ASSET WELCOME CNTR TRAIL RECON	000000	66,289.16
01-5268	PACIFIC METAL SOLUTIONS					

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 215 HISTORIC PRESERVATION

DEPARTMENT: 577 HP FIXED CAPITAL ASSETS O

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-5268	PACIFIC METAL SOLUTIONS	continued				
		I-60829MS-IN	215-4577-750	CAPITAL ASSET LIGHTPOLE FLOWER BRACKETS	000000	5,200.05
				DEPARTMENT 577 HP FIXED CAPITAL ASSETS OTOTAL:		73,869.51
01-0433	WELLMARK BLUE CROSS BLU					
		I-07/01/24	215-4641-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	3,102.59
01-3314	CENTURY BUSINESS PRODUC					
		I-739892	215-4641-428	UTILITIES HP/PZ CONTRACT 06/2024	000000	64.22
01-3877	MUTUAL OF OMAHA					
		I-001722242254	215-4641-415	GROUP INSURAN LIFE INSURANCE	000000	26.40
				DEPARTMENT 641 OFFICE HIST. PRES.	TOTAL:	3,193.21
				FUND 215 HISTORIC PRESERVATION	TOTAL:	209,811.56

PACKET: 06703 07-16-24 - COMBINED  
VENDOR SET: 01  
FUND : 216 REVOLVING LOAN  
DEPARTMENT: 653 REVOLVING LOAN  
BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT		
01-0558	NHS OF THE BLACK HILLS	I-2024-6	216-4653-422	PROFESSIONAL CONTRACT 6/2024	000000	3,000.00		
01-4877	SCHLOSSER CONSTRUCTION	I-1030-2	216-4653-962-04	SIDING GRANT 320 WILLIAMS HEPPEL	000000	9,690.00		
01-5051	SODAK TITLE	I-OE-0330-24	216-4653-960	CLOSING CO O&E 7 STEWART SCHRAMM	000000	120.00		
					DEPARTMENT 653	REVOLVING LOAN	TOTAL:	12,810.00
					FUND 216	REVOLVING LOAN	TOTAL:	12,810.00

PACKET: 06703 07-16-24 - COMBINED  
 VENDOR SET: 01  
 FUND : 602 WATER FUND  
 DEPARTMENT: 330 WATER  
 BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	602-4330-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	3,820.70
01-0539	LEAD-DEADWOOD SANITARY	I-07/02/24 EQR	602-4330-422	PROFESSIONAL JUNE WATER EQR/WATER	000000	28,928.00
01-1365	SD PUBLIC HEALTH LAB	I-10616058	602-4330-422	PROFESSIONAL COLIFORM TESTING/WATER	000000	30.00
01-1798	CHAINSAW CENTER/DAKOTA	I-1-2010449	602-4330-425	REPAIRS CAT MINI EX RENTAL/WATER	000000	405.00
01-3877	MUTUAL OF OMAHA	I-001722242254	602-4330-415	GROUP INSURAN LIFE INSURANCE	000000	27.83
01-4317	VIGILANT BUSINESS SOLUT	I-2702	602-4330-422	PROFESSIONAL SCREENING	000000	89.00
01-4625	FIB CREDIT CARDS	I-06/30/24 PUB WORKS	602-4330-422	PROFESSIONAL USPS CERTIFIED/WATER	000000	9.41
					DEPARTMENT 330 WATER	TOTAL: 33,309.94
					FUND 602 WATER FUND	TOTAL: 33,309.94

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 607 HISTORIC CEMETERIES

DEPARTMENT: 580 HISTORIC CEMETERIES

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0213	TRUGREEN CHEM-LAWN					
		I-195712781	607-4580-422	PROFESSIONAL LAWN SERVICES/MT MORIAH	000000	1,037.96
01-3785	TALLGRASS LANDSCAPE ARC					
		I-2024-093	607-4580-422	PROFESSIONAL 2023 MM CEM PRES IMP/MT MORIAH	000000	5,313.80
01-4317	VIGILANT BUSINESS SOLUT					
		I-2635	607-4580-422	PROFESSIONAL SCREENING	000000	140.75
					DEPARTMENT 580 HISTORIC CEMETERIES	TOTAL: 6,492.51
					FUND 607 HISTORIC CEMETERIES	TOTAL: 6,492.51

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 610 PARKING/TRANSPORTATION

DEPARTMENT: N/A NON-DEPARTMENTAL

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT	
01-5233	KRAMME, SHANE R.	I-20240627	610-3360-532	PARKING FINE REFUND CITATION 1441797	000000	34.00	
01-5269	ENTERPRISE RENT-A-CAR C	I-20240708	610-3360-532	PARKING FINE REFUND CITATION 25695403/P&T	000000	100.00	
01-5270	SCHWAN, WILLIAM	I-20240705	610-3360-532	PARKING FINE REFUND CITATION 256106980/P&T	000000	25.00	
01-5271	ROXOR UTV RENTALS LLC	I-20240703	610-3360-532	PARKING FINE REFUND CITATION 256111719/P&T	000000	25.00	
		I-20240704	610-3360-532	PARKING FINE REFUND CITATION 256111718/P&T	000000	25.00	
01-5272	COVEL, SEAN	I-2024070901	610-3360-530	PARKING COMBI 06/20/24 DUP CHARGE REFUND/P&T	000000	10.00	
01-ENTERP	ENTERPRISE RENT A CAR	I-20240701	610-3360-532	PARKING FINE REFUND CITATION 25695238/P&T	000000	100.00	
				DEPARTMENT	NON-DEPARTMENTAL	TOTAL:	319.00
01-0418	BLACK HILLS PIONEER	I-579 - 2024	610-4360-423	PUBLISHING ORD. #1400 -VEHICLES & TRAFFIC	000000	70.85	
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	610-4360-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	4,054.02	
01-1424	SOUTHSIDE SERVICE	I-9156	610-4360-425	REPAIRS TIRE REPAIR/P&T	000000	40.00	
01-2715	SPEARFISH BUILDING & SU	I-55548	610-4360-426	SUPPLIES (4) INSLX TRAFFIC YELLOW/P&T	000000	489.80	
		I-55572	610-4360-426	SUPPLIES BLUE-WHITE MARKING PAINT/P&T	000000	393.12	
		I-55673	610-4360-426	SUPPLIES (2) INSLX TRAFFIC YELLOW/P&T	000000	244.90	
01-3875	FMG ENGINEERING	I-33666	610-4360-422	PROFESSIONAL TOPOGRAPHIC SITE SURVEY/P&T	000000	2,025.00	
01-3877	MUTUAL OF OMAHA	I-001722242254	610-4360-415	GROUP INSURAN LIFE INSURANCE	000000	23.10	
01-4766	IPS GROUP INC	I-INV98786	610-4360-422	PROFESSIONAL PEMS-PTMS PERMITS-FEES/P&T	000000	7,123.91	
		I-INV99168	610-4360-422-02	PROFESSIONAL TRANS-REMOTE FEES-MULTI/P&T	000000	4,484.28	
01-5273	BOSWORTH, JON	I-20240709	610-4360-422	PROFESSIONAL REFUND TOW BILL/P&T	000000	262.53	



7/12/2024 11:39 AM  
 PACKET: 06703 07-16-24 - COMBINED  
 VENDOR SET: 01  
 FUND : 610 PARKING/TRANSPORTATION  
 DEPARTMENT: 360 PARKING/TRANSPORTATION  
 BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-5274	MCD SEALCOATING & ASPHA	I-INV 06/26/24	610-4360-425	REPAIRS SHERMAN STREET PARKING LOT/P&T	000000	33,848.73
DEPARTMENT 360 PARKING/TRANSPORTATION TOTAL:						53,060.24
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	610-4361-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	2,230.19
01-0545	LYNN'S DAKOTA MART	I-003000491028	610-4361-426	SUPPLIES (10) 24 PACK BOTTLE WATER/TROL	000000	37.90
01-1503	BLACK HILLS SPECIAL SER	I-36300	610-4361-422	PROFESSIONAL JUNE CLEANING/TROLLEYS	000000	3,100.00
01-3877	MUTUAL OF OMAHA	I-001722242254	610-4361-415	GROUP INSURAN LIFE INSURANCE	000000	9.90
01-4857	VERIZON CONNECT	I-316000054752	610-4361-422	PROFESSIONAL JUNE VEHICLE TRACKING/TROLLEY	000000	116.35
01-5052	AVID4 ENGINEERING	I-23-123.13	610-4361-422	PROFESSIONAL GIS TECH SRVC RETAINER	000000	2,000.00
DEPARTMENT 361 TROLLEY DEPARTMENT TOTAL:						7,494.34
01-0429	BLACK HILLS ENERGY	I-POWER 06/26/24	610-4362-428	UTILITIES 20 WABASH ST LIGHTS	000000	24.67
01-0433	WELLMARK BLUE CROSS BLU	I-07/01/24	610-4362-415	GROUP INSURAN WELLMARK BLUE CROSS AND BLUE S	000000	639.38
01-3151	KONE CHICAGO	I-871401952	610-4362-422	PROFESSIONAL JUNE ELEVATOR MAINT/RAMP	000000	185.54
01-3877	MUTUAL OF OMAHA	I-001722242254	610-4362-415	GROUP INSURAN LIFE INSURANCE	000000	6.60
01-5275	PATRIOT PAINTING AND DR	I-INV 07/09/24	610-4362-422	PROFESSIONAL PAINTING OF PARKING GARAGE/RAM	000000	9,143.33
DEPARTMENT 362 BROADWAY GARAGE TOTAL:						9,999.52
FUND 610 PARKING/TRANSPORTATION TOTAL:						70,873.10

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 719 TIF #10 TRU HOTEL

DEPARTMENT: 000 NON-DEPARTMENTAL

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-3362	FIRST INTERSTATE BANK					
		I-#8200017357-6/3/24	719-4000-429	OTHER #8200017357 - TIF #10	000000	609.38
					DEPARTMENT 000 NON-DEPARTMENTAL	TOTAL: 609.38
					FUND 719 TIF #10 TRU HOTEL	TOTAL: 609.38

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 720 DEPOSITS HELD

DEPARTMENT: 000 NON-DEPARTMENTAL

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-2444	NAJA SHRINERS					
		I-06/27/24	720-4000-429	OTHER	DEPOSIT REFUND - SHRINE CIRCUS 000000	1,000.00
01-4015	LIBBY PRODUCTIONS, LLC					
		I-06/27/24	720-4000-429	OTHER	DEPOSIT REFUND - DEADWOOD PBR 000000	2,350.00
01-4348	WEM, INC					
		I-06/27/24	720-4000-429	OTHER	DEPOS RFND-MICKELSON MARATHON 000000	1,000.00
DEPARTMENT 000 NON-DEPARTMENTAL						TOTAL: 4,350.00
FUND 720 DEPOSITS HELD						TOTAL: 4,350.00

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

FUND : 721 TIF #9 OPTIMA

DEPARTMENT: 000 NON-DEPARTMENTAL

BUDGET TO USE: CB-CURRENT BUDGET

Section 4 Item a.

BANK: FNBAP

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-3673	LIBERTY NATIONAL BANK					
		I-#60004256-6/3/24	721-4000-429	OTHER #60004256 - TIF #9	000000	682.28
				DEPARTMENT 000 NON-DEPARTMENTAL	TOTAL:	682.28
				FUND 721 TIF #9 OPTIMA	TOTAL:	682.28

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 723 NICKEL SLOT PAYMENT AGNCY

DEPARTMENT: 000 NON-DEPARTMENTAL

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-0579	SD COMMISSION ON GAMING	I-07/10/24	723-4000-429	OTHER CITY SLOTS - PYMT 1,YR 1	000000	118,750.00
					DEPARTMENT 000 NON-DEPARTMENTAL	TOTAL: 118,750.00
					FUND 723 NICKEL SLOT PAYMENT AGNCY	TOTAL: 118,750.00

PACKET: 06703 07-16-24 - COMBINED

VENDOR SET: 01

Section 4 Item a.

FUND : 725 TIF #8 DEADWOOD STAGE RUN

DEPARTMENT: 000 NON-DEPARTMENTAL

BANK: FNBAP

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-3362	FIRST INTERSTATE BANK					
		I-#8200017030-6/3/24	725-4000-429	OTHER EXPENSE #8200017030 - TIF #8	000000	9,032.99
				DEPARTMENT 000 NON-DEPARTMENTAL	TOTAL:	9,032.99
				FUND 725 TIF #8 DEADWOOD STAGE RUN	TOTAL:	9,032.99
					REPORT GRAND TOTAL:	743,746.85

**RESOLUTION NO. 2024-16**  
**TO DECLARE THE FOLLOWING SURPLUS PROPERTY**

**BE IT RESOLVED** by the Deadwood City Commission that the City of Deadwood approve the following property be declared surplus and disposed of according to state statutes, including disposal, sale or trade-in on new equipment:

HP ProDesk 600 G1 TWR	Serial #2UA41218TB
HP Z200 Workstation	Serial #2UA1091G78
Samsung Galaxy S5	Serial #R5CT52N4FYH
Samsung Galaxy S5	Serial #R6CT52GD6BE
4-5 Gallon Metal Water Coolers	3- Gallon Metal Water Coolers
3- Pass Base Stations	1-Drager PA 80 test kit
1-Hose tester (bad pump)	1-Metal Gate Y 5X2”X2”X2
1-Slide Projector missing parts	8- Plastic Tubes – with burn gel
4 – Yellow Pay Boxes	Large Box of Coin Cans for Meters
One Box Duncan Meter Domes	One Bucket of Nuts and Bolts
Large Tote of Duncan Meter Bases	182 - Duncan Double Housing Meters
437 - Duncan Meter Mechanisms	68 - Meter Bases
68 - Single Housing Duncan Meters	127 - Double Housing Meters with Mechanisms
Large Box of Duncan Dome Straps and Front Doors	
Large Box of Duncan Coin Receptacles for Double Meters	
White Industries AXT3100	Serial #31005077
38 - Treasury Main Fare Box	

Dated this 15th day of July, 2024.

City of Deadwood

\_\_\_\_\_  
 David Ruth Jr., Mayor

ATTEST:

\_\_\_\_\_  
 Jessica McKeown, Finance Officer

## RESOLUTION 2024-17

### A RESOLUTION IN SUPPORT OF THE COMMUNITY ACCESS GRANT REQUEST

**WHEREAS**, the City of Deadwood has a population of 1,156 residents yet entertains nearly 4 million visitors annually, many who attend the vast variety of special events; and,

**WHEREAS**, many of these events take place at the Deadwood Event Complex with a narrow underimproved thoroughfare known as Crescent Street; and,

**WHEREAS**, Crescent Street is a highly important local multi-modal road used by pedestrians, cars and trucks, trolleys, UTVs, motorcycles, semi-trailers, and horses throughout the entire year; and,

**WHEREAS**, Crescent Street is one of two roads connecting the Deadwood Event Complex to the community and serves as a main access route to the community's football field (Ferguson Field), baseball fields (Keene Park) and rodeo grounds/event complex (Days of '76 arena), along with a neighborhood housing area; and,

**WHEREAS**, The Deadwood Event Complex is utilized throughout the entire calendar year for events including Snocross, Days of '76 rodeo, Back When They Bucked rodeo, Deadwood Pro Bull Riding, Monsters of Destruction Monster Trucks, Freestyle motocross, Three-wheeler Rally, Badlands Steer Roping, and Shrine Circus; and,

**WHEREAS**, the reconstruction of this important local roadway has been identified in the City's Capital Improvement Plan due to severe alligator cracking and rutting surface, nonexistent storm sewer and drainage, and lack of curb and gutter; and,

**WHEREAS**, the substandard width of the roadway and lack of pedestrian facilities create safety issues along Crescent Street; and,

**WHEREAS**, the City of Deadwood is applying for a Community Access Grant from the South Dakota Department of Transportation; and

**WHEREAS**, this grant will be used to improve the safety and accessibility of Crescent Drive,

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Deadwood hereby supports the submission of the Community Access Grant application;

**AND BE IT FURTHER RESOLVED**, that the City of Deadwood will comply with all local zoning and planning regulations, state guidelines and rules and will support and encourage the submission of the grant application, will maintain the finished project and will pay the required match for the grant.

Dated this 15th day of July 2024.

CITY OF DEADWOOD

\_\_\_\_\_  
David Ruth, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Jessica McKeown, Finance Officer





## **POLICE SERGEANT I POSITION DESCRIPTION**

**(Police Sergeant I & II are based on Sergeant Seniority)**

### **GENERAL PURPOSE**

The purpose of a police Sergeant is to lead and manage a team of police officers. The Sergeant will promote a safe, positive, and professional work environment. The Sergeant will supervise officers and will be responsible for the day-to-day operations of the Deadwood Police Department. The Sergeant will ensure their team carries out their duties effectively and efficiently and upholds the law. The Sergeant must be able to respond to situations with poise, and act quickly and calmly. In addition to supervising, the Sergeant will perform general police duties in the protection of life and property through enforcement of local, state, and federal law, investigates and prevents crimes, and will aid educating the public.

### **SUPERVISION RECEIVED**

A police Sergeant will work under the direction of, and report to, the Chief of Police, unless specifically directed otherwise.

### **SUPERVISION EXERCISED**

Exercises supervision over all Police Officers within the department, unless specifically directed otherwise.

### **ESSENTIAL DUTIES AND RESPONSIBILITIES**

Essential duties and responsibilities include, but are not limited to:

- Provides supervision, guidance, and assistance to officers and support staff in the department during their assigned duties.
- Requires adherence to administrative policies, general orders, special orders, and procedures of the department set forth by the Chief of Police and/or city administration.
- Assures personnel performs desirable police services.
- Reviews a variety of police related reports prepared by subordinate officers.

- Makes day-to-day police assignments as required by the needs of the department and assists in training of personnel according to department standards, policies, or procedures.
- Develops, promotes, and maintains a climate in which moral, motivation, and individual effectiveness in the department is positive, productive, and affective.
- Preserves and promotes the chain of command within the rank and file and the operations of the department.
- Requires attainment of acceptable standards of performance and enforces the control necessary to assure performance is achieved according to policies and procedures.
- Resolves conflicts that arise within the department.
- Assures adherence to procedures in preparation and filing reports and forms of the department.
- Maintains a level of standard that promotes respect and confidence within the department.
- Keeps current on new methods of operations, change in criminal law, and procedures that may affect the operations of the department.
- Is accessible to support officers, be accessible for officers who request assistance, and joins efforts in enforcing traffic regulations and criminal laws, answer complaints, assist officers on complaints, and conducts investigations.
- Additionally, Sergeants may be responsible for the other duties/tasks as assigned/delegated by the Chief of Police. These duties/tasks could include but are not limited to: Review calls for service, review and approve case reports and accident reports, daily shift schedule, NIBRS, complete audio/video downloads of cases for the States Attorney's office, fleet operations, Acadis submissions, PBT calibration, new hires, training records, evidence, FEMA registrations, MOCIC, ride-along approvals, and any other tasks as assigned.

### **ADDITIONAL DUTIES**

- Manages investigations, directs, or assists patrol officers in the investigation of crime scenes and/or traffic accidents.

- Performs the duties of patrol officer as needed or when directed to.
- Participates on oral boards for selection process of new hires, specialty positions, and promotions within the department.
- Available to be called in.

---

## **DESIRED MINIMUM QUALIFICATIONS:**

### **GENERAL QUALIFICATIONS**

- Must be 21 years or older.
- Must be a United States Citizen.
- Must possess or be able to obtain by time of hire, a valid South Dakota Driver's License without suspension or revocation in any other state.
- No felony convictions or disqualifying criminal histories.
- Ability to work flexible hours/shift work.
- Ability to be called in.
- Must be computer literate.
- Have successfully completed a one-year probationary period and must be off any probationary status and be in good standing with the department.

### **EDUCATION AND EXPERIENCE**

- 3 years of full-time law enforcement experience, with minimum of 1 year as patrolman experience with the Deadwood Police Department.
- Must possess a South Dakota Law Enforcement Certification.
- High School Diploma or GED equivalent.

### **NECESSARY KNOWLEDGE, SKILLS, AND ABILITIES**

- Thorough knowledge of supervisor methods.
- Thorough knowledge of Federal, State, County, and City Municipal codes, laws, and regulations.
- Thorough knowledge of standard police practices, methods, and procedures, including patrol, crime prevention, traffic control, investigations, and identification techniques.

- Thorough knowledge of Criminal Law and criminal procedures, including references regarding apprehension, arrest, custody of offenders and rules relating to the seizure and preservation of rules of evidence.
- Thorough knowledge of offensive and defensive weapons, including defensive tactics techniques.
- Thorough knowledge of effective and appropriate interviewing and interrogation techniques.
- Thorough knowledge of the safe and effective use of firearms and other related police equipment.
- Ability to prepare complete, accurate, fair, and timely evaluations of personnel in the department.
- Ability to provide effective supervision, training, and motivation for the department.
- Ability to effectively maintain composure under adverse conditions such as public harassment, critical injuries, and death.
- Ability to effectively interpret and apply laws, regulations, policies, and procedures.
- Ability to demonstrate skill and efficient firearm use.
- Ability to establish and maintain effective working relationships with other supervisors, officers, other City personnel, City Officials, and the public from a variety of racial, ethnic, and economic backgrounds.
- Ability to communicate effectively with others, both orally and in writing.
- Ability to prepare and present accurate and reliable reports containing facts, findings, and recommendations.

### **SPECIAL REQUIREMENTS**

- Obtain CPR and First Aid Certification within 6 months of employment.
- Attend a Supervisor Certification Class within 1 year of employment.
- Ability to meet Department's physical standards within 1 year of employment.

### **TOOLS AND EQUIPMENT USED**

The following is a list of tools and equipment used in the performance of a law enforcement officer's duties, which include, but are not limited to: Police car, police radio, radar, handgun, rifle, shotgun, taser, baton, and other equipment as required, such as baton, handcuffs, breathalyzer, pager, first aid equipment, copier, fax, typewriter, personal computer programs, such as word, excel, zuercher, etc.

### **PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job.

Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The employee must work rotating shifts and extended workday, overtime, and call out assignments. Employees will work and deal with the general public in all types of situations and conditions. The employee will be in good health as there are frequent periods of sitting, standing, bending, crawling, and stooping in all types of terrain and conditions. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus. The employee must occasionally lift, carry, and/or move more than 100 pounds.

### **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee frequently works in outside weather conditions. The employee occasionally works near moving mechanical parts; in high, precarious places; and with explosives and is occasionally exposed to wet and/or humid conditions, fumes, or airborne particles, toxic or caustic chemicals, extreme cold, extreme heat, and vibration. Drive patrol vehicles in a safe and effective manner while on patrol or responding to a complaint in all types of weather conditions.

### **SELECTION GUIDELINES**

Formal letter of interest be submitted; rating of education and experience; oral interviews and reference check; job related tests may be required.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

## Functional Job Description

DATE: \_\_\_\_\_

Position: Police Sergeant

Employee Name: \_\_\_\_\_

Physician Approval: \_\_\_\_\_

Date Developed: 03/25/05Revised: October 16, 2023

### PHYSICAL DEMANDS

Note: In terms of an eight-to-ten-hour workday.

ACTIVITY	HOURS AT ONE TIME	TOTAL IN AN 8-10 HOUR DAY	COMMENTS
Sit	2	4	
Stand	2	2 - 5	Special Events
Walk	2	2 - 5	Special Events

Occasionally = 1% - 33%

Frequently = 34% - 66%

Continuously = 67% - 100%

ACTIVITY	NON E	OCCASIONAL	FREQUENTLY	CONTINUOUSLY	COMMENTS
Bend/Stoop		X			
Squat		X			
Crawl		X			
Climb		X			
Reach		X			
Reach above shoulder level		X			
Crouch		X			
Kneel		X			
Balance		X			
Push/Pull		X			

**PHYSICAL DEMANDS**

ACTIVITY	MAXIMUM	FREQUENTLY	CONTINUOUSLY	COMMENTS
Carry (pounds)	100 pounds	50 pounds	20 pounds	Gun belt, firearm, etc.
Lift (pounds)	100 pounds	50 pounds	20 pounds	Gun belt, firearm, etc.

ACTIVITY	RIGHT	LEFT	COMMENTS
Use of foot controls.	X	X	
Simple hand grasping	X	X	
Firm hand grasping	X	X	
Fine manipulating	X	X	

**SENSORY PERCEPTIONS**

ITEM	YES	NO	COMMENTS
Hearing: Less than 40db loss @ 500 Hz, 1000 Hz, and 2000 Hz with or without correction. Ability to receive detailed information through oral communication, and to make fine discriminations in sounds, such as when making fine adjustments on machined parts.	X		
Color Perception	X		
Depth Perception	X		
Less than arm's length work.	X		
70 ° field of vision.	X		
Potential Safety hazard.	X		
Requires protective clothing or personal protective devices.	X		Vest, HPD, gloves, mask, dust mask, safety glasses, and face shields.

Correctable vision to 20/40 Near/Far	X		
---	---	--	--

**ESSENTIAL FUNCTIONS**

<b>WORKING CONDITIONS</b>	<b>YES</b>	<b>NO</b>	<b>COMMENTS</b>
Worker is subject to inside environmental conditions; protection from weather conditions but not necessarily from temperature changes.	X		
The worker is subject to outside environmental conditions; no effective protection from weather.	X		
The worker is subject to both environmental conditions; activities occur inside and outside.	X		
Worker is subject to extreme cold, temperatures below 32° for periods of more than one hour.	X		
Worker is subject to extreme heat, temperatures above 100° for periods of more than one hour.	X		
Worker is subject to noise. There is sufficient noise to cause the worker to shout in order to be heard above the ambient noise level.	X		Firearms, sirens, rally, crowded establishments, special events –concerts.
Worker is subject to vibration; exposure to oscillating movements of the extremities or whole body.	X		Firearms
Worker is subject to hazards. Includes a variety of physical conditions, such as proximity to moving mechanical parts, electrical current, working on high places, exposure to heat or chemicals.	X		
Worker is subject to atmospheric conditions; one or more of the following conditions that affect the respiratory system or the skin: fumes, odors, dusts, mists, gases, or poor ventilation.	X		
Worker is subject to oils. There is air and/or skin exposure to oils and other cutting fluids.	x		Vehicle accidents
Worker is subject to scheduled overtime.	X		
Worker is subject to unscheduled overtime.	X		



Worker is subject to emergency situations involving hazards, elements, and limited response time, creating stressful situations.	X		
Worker is subject to night work hours.	X		

**MENTAL DEMANDS**

<b>MENTAL DEMANDS</b>	<b>YES</b>	<b>NO</b>	<b>INTENSITY/COMMENTS</b>
Public Contact:			
Routine	X		
Complaint	X		
Emergency	X		
Handling Conflict	X		
Handling multiple priorities	X		
Make decisions with limited information.	X		
Make non-routine or unexpected judgments.	X		
Operate in absence of clear expectations or procedures.	X		
Operate under short time frames; deadlines	X		
Serious consequences of error.	X		
Use of tact and diplomacy.	X		
Reasoning:			
Apply procedure	X		
Develop new procedure	?		
Information ordering: arrange things or actions in a certain order.	X		
Visualization: imagining how something will work.	X		
Comparison of letters, numbers, or patterns quickly and accurately.	X		
Communication Skills:			
Develop written communications requiring grammar skills.	X		
Interact with customers on an explanatory basis.	X		
Interact with groups of people.	X		
Math Skills:			
Basic skills of addition, subtraction, and multiplication.	X		Advanced Accident Investigation (Not all officers are required to use)
Advanced math skills.		X	
Reading Skills:			
Basic instructions material	X		
Technical information	X		

Other			
Other.			

**JOB DESCRIPTION EMPLOYEE AGREEMENT  
for POLICE SERGEANT II**

I, \_\_\_\_\_, have read and understand that the duties listed above are intended only as an illustration of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from this position if the work is similar, related or a logical assignment to the position.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date



## POLICE LIEUTENANT POSITION DESCRIPTION

### **GENERAL PURPOSE**

The purpose of a police Lieutenant is to lead and manage a team of police sergeants and officers. The Lieutenant will promote a safe, positive, and professional work environment. The Lieutenant, at the direction of the Chief of Police, may supervise all Sergeants and subsequently all Police Officers. The Lieutenant will ensure all staff carry out their duties effectively and efficiently and uphold the law. The Lieutenant must respond to situations with poise, acting quickly and calmly. In addition to supervising Sergeants and Police Officers, the Lieutenant will perform general police duties in the protection of life and property through enforcement of local, state, and federal law, can investigate and prevent crimes, and will aid in educating the public.

### **SUPERVISION RECEIVED**

A Police Lieutenant will work under the direction of, and report to, the Chief of Police, unless specifically directed otherwise by the Chief of Police.

### **SUPERVISION EXERCISED**

Exercises supervision over Police Sergeants, subordinate Police Officers, and support staff in their assigned duties, unless specifically directed otherwise by the Chief of Police.

### **ESSENTIAL DUTIES AND RESPONSIBILITIES**

Essential duties and responsibilities include, but are not limited to:

- Provides supervision, guidance, and assistance to Sergeants and subordinate Police Officers and support staff in the department.
- Preserves and promotes the chain of command within the rank and file and the operations of the Police department.
- At the direction of the Chief of Police, the Lieutenant will perform a variety of routine and complex public safety work in the administration of the police department to include, but not limited to; policies, general orders, special orders, and procedures of the department set forth by the Chief of Police/or City administration.

- Oversees and may personally participate in investigating criminal law violations, obtaining evidence, and compiling information regarding crimes, preparing cases for filing of charges, testifying in court and related activities.
- Develops, promotes, and maintains a climate in which moral, motivation, and individual effectiveness in the department is positive, productive, and affective.
- Supervises the scheduling and coordination of shift activities.
- Reviews a variety of police related reports prepared by subordinate officers and Sergeants.
- Makes day-to-day police assignments as required by the needs of the department and assists in training of personnel according to department standards, policies, or procedures.
- Makes plans about individual tactical matters such as equipment to be used for particular operations or the detailed plans needed for an investigation. Develops new approaches to investigate problems.
- Determines how to deploy personnel during emergency responses.
- Maintains contact with other police supervisory personnel to coordinate investigation activities, provide mutual assistance during emergency situations and provide general information about department activities.
- Maintains contact with general public, court officials and other City of Deadwood officials in the performance of police duties.
- Maintains normal availability by radio or telephone for consultation on major emergencies or precedent.
- Carries out duties in conformance with Federal, State, County and City laws and ordinances. Keeps current on new methods of operations, changes in criminal law, and procedures that may affect the operations of the department.
- Oversee and assist, as needed, in the patrol of City streets, parks, commercial and residential areas to preserve the peace and enforce the law, control vehicular traffic, prevent or detect and investigate misconduct involving misdemeanors, felonies and other law violations and to otherwise serve and protect.

- Oversees and assists, as needed, in the response to emergency radio calls and investigates accidents, robberies, civil disturbances, domestic disputes, fights, drunkenness, missing children, prowlers, abuse of drugs etc... Takes appropriate law enforcement action.
- Prepares a variety of reports and records.
- Reviews, evaluates, and develops programs, policies, and procedures for various departmental operations.
- Perform CPR and First Aid when needed.
- Follows all safety policies and procedures of the Deadwood Police Department.
- Exercises initiative and discretion when faced with emergency conditions.
- Additionally, the Lieutenant may be responsible for the other duties/tasks as assigned/delegated by the Chief of Police. These duties/tasks include but are not limited to: Review calls for service, review and approve case reports and accident reports, daily shift schedule, NIBRS, complete audio/video downloads of cases for the States Attorney's office, fleet operations, Acadis submissions, PBT calibration, new hires, training records, evidence, FEMA registrations, MOCIC, ride-along approvals, and any other tasks as assigned.

### **ADDITIONAL DUTIES ESSENTIAL**

Essential duties and responsibilities include, but are not limited to:

- Provides supervision, guidance, and assistance to Sergeants and subordinate Police Officers and support staff in the department.
- Oversee investigations, direct or assists patrol Sergeants and/or Officers in the investigation of crime scenes and/or traffic accidents.
- Performs the duties of patrol Officer as needed or when directed to.
- Participates on oral boards for selection process of new hires, specialty positions, and promotions within the department.
- Work with citizens and business leaders in all types of situations.
- Work with Sergeants and be able to make team orientated, sound judgment decisions.

- Work flexible hours/or shift work, including holiday, weekends, and extended days. Subject to call-out as needed.

---

## **DESIRED MINIMUM QUALIFICATIONS:**

### **GENERAL QUALIFICATIONS**

- Must be 21 years of age or older.
- Must be a United States citizen.
- Must possess or be able to obtain by time of hire, a valid South Dakota Driver's License without record of suspension or revocation in any other state.
- Must not have a felony conviction or disqualifying criminal history.
- Ability to work flexible hours/shift work.
- Ability to be called in.
- Must be computer literate.
- Not be on any probationary status and be in good standing with the department.

### **EDUCATION AND EXPERIENCE**

- High School Diploma or GED equivalent.
- South Dakota Law Enforcement Certified.
- A minimum of three (3) years as certified law enforcement officer.
- A minimum of two (2) years of experience at the rank of Police Sergeant with the Deadwood Police Department.

### **NECESSARY KNOWLEDGE, SKILLS, AND ABILITIES**

Must have thorough knowledge of:

- Supervisory methods
- Federal, State, County, and City municipal codes, laws, and regulations
- Standard police practices, methods, and procedures, including patrol, crime prevention, traffic control, investigations, and identification techniques.
- Thorough knowledge of Criminal Law and Criminal Procedures, including references regarding apprehension, arrest, custody of offenders and rules relating to the seizure and preservation of rules of evidence.

- Thorough knowledge of offensive and defensive weapons, including defensive tactics and techniques.
- Thorough knowledge of effective and appropriate interviewing and interrogation techniques.
- Thorough knowledge of the safe and effective use of firearms and other related police equipment.
- Ability to prepare complete, accurate, fair, and timely evaluations of personnel in the department.
- Ability to provide effective supervision, training, and motivation for the department.
- Ability to effectively maintain composure under adverse conditions such as public harassment, critical injuries, and death.
- Ability to effectively interpret and apply law, regulations, policies, and procedures.
- Ability to demonstrate skill and efficient firearm use.
- Ability to establish and maintain effective working relationships with other supervisors, officers, other City personnel, City Officials, and public from a variety of racial, ethnic, and economic backgrounds.
- Ability to communicate effectively with others, both orally and in writing.
- Ability to prepare and present accurate and reliable reports containing facts, findings, and recommendations.

### **SPECIAL REQUIREMENTS**

- Obtain and maintain CPR and First Aid Certification.
- Attend an advanced Supervisor/Management level class within 1 year of employment/date of promotion.
- Ability to meet Department's physical standards with 1 year of employment.

### **TOOLS AND EQUIPMENT USED**

The following is a list of tools and equipment used in the performance of a law enforcement officer's duties, which include, but are not limited to: Police car, police radio, radar, handgun, rifle, shotgun, taser, baton, and other equipment as required, such as breathalyzer, pager, first aid equipment, copier, fax, typewriter, personal computer programs, such as word, excel, zuercher, etc. Cameras and video recording equipment. Tools and equipment used in crime scene processing.



**PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The employee must work rotating shifts and extended workday, overtime, and call out assignments. Employees will work and deal with the general public in all types of situations and conditions. The employee will be in good health as there are frequent periods of sitting, standing, bending, crawling, and stooping in all types of terrain and conditions. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus. The employee must occasionally lift, carry, and/or move more than 100 pounds.

**WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee frequently works in outside weather conditions. The employee occasionally works near moving mechanical parts; in high, precarious places; and with explosives and is occasionally exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, extreme cold, extreme heat, and vibration. Drive patrol vehicles in a safe and effective manner while on patrol or responding to a complaint in all types of weather conditions.

**SELECTION GUIDELINES**

Formal letter of interest be submitted to the Chief of Police; rating of education and experience; oral interviews and reference check; job related tests may be required.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

## Functional Job Description

DATE: \_\_\_\_\_

Position: \_\_\_\_\_ Police Lieutenant \_\_\_\_\_

Employee Name: \_\_\_\_\_

Physician Approval: \_\_\_\_\_

Date Developed: 06/05/2013 Revisions: \_\_\_\_\_

### PHYSICAL DEMANDS

Note: In terms of an eight hour workday.

ACTIVITY	HOURS AT ONE TIME	TOTAL IN AN 10 HOUR DAY	COMMENTS
Sit	2	5	Patrol Car.
Stand	2	5	
Walk	2	5	
Bike	2	6	

Occasionally = 1% - 33%

Frequently = 34% - 66%

Continuously = 67% - 100%

ACTIVITY	NONE	OCCASIONAL	FREQUENTLY	CONTINUOUSLY	COMMENTS
Bend/Stoop			X		
Squat		X			
Crawl		X			
Climb		X			
Reach		X			
Reach above shoulder level		X			
Crouch		X			
Kneel		X			
Balance		X			
Push/Pull		X			

### PHYSICAL DEMANDS

ACTIVITY	MAXIMUM	FREQUENTLY	CONTINUOUSLY	COMMENTS
Carry (pounds)	100 pounds	25 pounds	20 pounds	Duty Gear
Lift (pounds)	100 pounds	25 pounds	20 pounds	Duty Gear

ACTIVITY	RIGHT	LEFT	COMMENTS
Use of foot controls.	X	X	Motor Vehicle or bicycle.
Simple hand grasping	X	X	
Firm hand grasping	X	X	
Fine manipulating	X	X	Fire arm.

### SENSORY PERCEPTIONS

ITEM	YES	NO	COMMENTS
Hearing: Less than 40db loss @ 500 Hz, 1000 Hz, and 2000 Hz with or without correction. Ability to receive detailed information through oral communication, and to make fine discriminations in sounds, such as when making fine adjustments on machined parts.	X		
Color Perception	X		
Depth Perception	X		
Less than arm's length work.	X		
70 ° field of vision.	X		
Potential Safety hazard.	X		
Requires protective clothing or personal protective devices.	X		Bike helmet, vest, HPD, gloves, mask, dust mask, safety glasses.
Correctable vision to 20/40 Near/Far	X		

Smell	X		
-------	---	--	--

### ESSENTIAL FUNCTIONS

WORKING CONDITIONS	YES	NO	COMMENTS
Worker is subject to inside environmental conditions; protection from weather conditions but not necessarily from temperature changes.	X		
The worker is subject to outside environmental conditions; no effective protection from weather.	X		
The worker is subject to both environmental conditions; activities occur inside and outside.	X		
Worker is subject to extreme cold, temperatures below 32° for periods of more than one hour.	X		
Worker is subject to extreme heat, temperatures above 100° for periods of more than one hour.	X		
Worker is subject to noise. There is sufficient noise to cause the worker to shout in order to be heard above the ambient noise level.	X		Firearms, sirens, rally, crowded establishments, special events –concerts.
Worker is subject to vibration; exposure to oscillating movements of the extremities or whole body.	X		Firearms
Worker is subject to hazards. Includes a variety of physical conditions, such as proximity to moving mechanical parts, electrical current, working on high places, exposure to heat or chemicals.	X		
Worker is subject to atmospheric conditions; one or more of the following conditions that affect the respiratory system or the skin: fumes, odors, dusts, mists, gases, or poor ventilation.	X		
Worker is subject to oils. There is air and/or skin exposure to oils and other cutting fluids.	X		Vehicle accidents
Worker is subject to scheduled overtime.	X		
Worker is subject to unscheduled overtime.	X		

Worker is subject to emergency situations involving hazards, elements, and limited response time, creating stressful situations.	X		
Worker is subject to night work hours.	X		

### MENTAL DEMANDS

MENTAL DEMANDS	YES	NO	INTENSITY/COMMENTS
Public Contact:			
Routine	X		
Complaint	X		
Emergency	X		
Handling Conflict	X		
Handling multiple priorities	X		
Make decisions with limited information.	X		
Make non-routine or unexpected judgments.	X		
Operate in absence of clear expectations or procedures.	X		
Operate under short time frames; deadlines	X		
Serious consequences of error.	X		
Use of tact and diplomacy.	X		
Reasoning:			
Apply procedure	X		
Develop new procedure		X	
Information ordering: arrange things or actions in a certain order.	X		
Visualization: imagining how something will work.	X		
Comparison of letters, numbers, or patterns quickly and accurately.	X		
Communication Skills:			
Develop written communications requiring grammar skills.	X		
Interact with customers on an explanatory basis.	X		
Interact with groups of people.	X		
Math Skills:			
Basic skills of addition, subtraction, and multiplication.	X		
Advanced math skills.	X		Advanced Accident Investigation (Not all officers are required to use)
Reading Skills:			
Basic instructions material	X		
Technical information	X		

Other			
Other.			

**JOB DESCRIPTION EMPLOYEE AGREEMENT  
for POLICE LIEUTENANT**

I, \_\_\_\_\_, have read and understand that the duties listed above are intended only as an illustration of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from this position if the work is similar, related or a logical assignment to the position.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date



# SAFETY MANUAL



## TABLE OF CONTENTS

Introduction.....	3
Safety Policy Statement .....	4-5
General Safety Rules .....	6-8
Program Overview.....	9
Chapter 1: Safety Training.....	10-11
Chapter 2: Safety Inspections .....	12
Chapter 3 Safety Committee.....	13-14
Chapter 4: Safety Program Monitoring and Risk Mitigation .....	15-16
Chapter 5: Accident and Incident Reporting .....	17-19
Active Threat.....	20-23
Confined Space Entry.....	24-32
Control of Hazardous Energy (Lockout/Tagout) .....	33-37
Fire Prevention Plan .....	38-43
Emergency Action Plan.....	44-46
Ergonomics.....	47-49
Personal Protective Equipment... ..	50-51
Eye and Face Protection .....	52-55
Hearing Conservation Program.....	56-58
Head Protection .....	59-60
Foot Protection.....	61-62
Hand Protection .....	63
Hazard Communication Plan.....	64-68
Ladder Safety.....	69-71
Machine Guarding.....	72-73
Blood Borne Pathogens.....	74-80

Adopted 6/26/28

Personal Fall Arrest .....	81-85
Powered Industrial Trucks (Forklifts) .....	86-90
Respiratory Protection .....	91-97
Welding, Cutting and Brazing .....	98-99
Portable Power and Hand Tools.....	100-101

## Appendices

Appendix A: Fire Risk Survey... ..	102
Appendix B: General Fire Prevention Checklist.....	103
Appendix C: Exits Checklist.....	104-105
Appendix D: Flammable and Combustible Material Checklist.....	106-107
Appendix E: Computation of Actual Noise Reduction Rating.....	108
Appendix F: Forklift Operator Daily Checklist .....	109
Appendix G: Job Hazard Analysis... ..	110
Appendix H: Good Catch Form.....	111
Appendix I: Confined Space Permit.....	112-113
Appendix J: Motor Vehicle Use Policy... ..	114-118

## **Applicability:**

This program applies to all personnel and resources employed by The City of Deadwood as well as any volunteers.

## **Introduction**

The City of Deadwood's most valuable assets are the employees whose efforts have enabled us to achieve the level of success we enjoy today.

The safety and wellbeing of every employee is the most important element in protecting that asset. Consequently, the City is committed to equipping employees to perform their assigned tasks safely.

The safety program cannot be successful without the active participation of all employees. As a valued employee, you should know your responsibilities so that if you see coworkers performing unsafe acts, you can remind them that safety is a top priority.

Employees are expected to follow all safety and health rules. Failure to follow the important rules in this manual could result in injury to yourself or others or damage to property. Disciplinary action could be taken for not following current practices, up to and including termination of employment.

***When you arrive for work every day,  
make sure safety is a top priority.***

## Safety Policy Statement

### ***Mission***

The City of Deadwood and its employees will integrate occupational safety and health practices into all activities and related operations planning and decision making to achieve superior health and safety performance. Simply stated: Safe operation is our only standard!

### ***Policy***

The City of Deadwood will manage its operations in accordance with our occupational, safety, and health principles and beliefs, in a manner that helps to control risks and protect the environment.

### ***Principles & Beliefs***

The management philosophy of the City of Deadwood is to produce superior service for our citizens in the safest and most efficient ways possible. Employees will be innovative and efficient in offering services that return economic value, while simultaneously protecting all workers of hazards. Only through this management philosophy can we serve its citizens.

These occupational, safety, and health principles and beliefs are intended to guide the actions of the City of Deadwood and its employees while they integrate this occupational, health and safety philosophy into their day-to-day activities.

Occupational, safety and health must come first, no matter how urgent the job. A healthy and safe work environment for all employees is essential for the success of our operations, as well as for our families and communities. On-the-job safety is just as important as at-home safety, and vice versa. All incidents are preventable through the application of proper training, planning, knowledge, and resources to identify and control safety risks.

### ***Personal Commitment***

Only employees with the highest commitment to health and safety, environmental protection, and compliance will work for the City of Deadwood. All employees must take personal responsibility to work safely and show concern for the health and safety of their co-workers, contractors, citizens, and community.

### ***Superior Performance***

To ensure superior performance, the City of Deadwood will provide the necessary resources for effective occupational, safety, and health management. We will be recognized by our employees and citizens as an organization with superior occupational, safety, and health performance. We will continuously improve our performance through the application of our safety management

systems. We will set and review occupational, safety, and health objectives and targets and strive to meet them.

### ***100 Percent Compliance***

All employees are responsible for complying with all rules, policies, and procedures as a condition of employment. We will regularly audit our assets and operating practices. We will remedy any shortcomings found and promptly correct any deficiencies. Failure to comply with the processes and procedures may lead to disciplinary action.

### ***Incident prevention***

Each employee must create a culture of accident and injury elimination by assisting in the recognition and mitigation of workplace hazards. We must effectively learn and create knowledge through investigating injuries, illnesses, and near misses.

### ***Elimination of Wasteful and Dangerous Practices***

Facilities will be designed, constructed, operated, and maintained to eliminate wasteful and dangerous practices.

### ***Open Communication***

The City of Deadwood will proactively work to develop and advance effective approaches to protect people and the environment. We will listen to our employees, citizens, and neighbors to continuously improve our operations, products, and safety performance.

## **Signed**

\_\_\_\_\_ ,

## **Signed Mayor**

## General Safety Rules

The following general safety rules have been developed to provide a safe and healthy working environment for all employees. These apply to all work activities.

1. Report to work well-rested and physically fit to be able to give full attention to your job.
2. Persons with physical or mental impairment should not perform tasks where their impairment has the potential to endanger themselves or others.
3. No employee may work while under the influence of alcohol, illegal drugs, or prescription drugs not prescribed to them. No employee may work if the effects of prescription or non-prescription drugs or other substances endangers their health or safety or that of any other person.
4. Persons working alone must check-in throughout their shift with a supervisor to ensure that their wellbeing is maintained.
5. Inappropriate behavior, such as horseplay, fighting, and practical jokes, are extremely dangerous and will not be tolerated.
6. Any unsafe conditions which are encountered shall be corrected or reported to your supervisor, department head, or Safety Coordinator.
7. Do not operate any machinery or equipment if it is known to be in an unsafe condition.
8. Machinery and equipment, including vehicles, are only to be operated by qualified persons, and then only when they are adequately trained in the use of the equipment and authorized to operate it.
9. Unsafe acts shall be reported to your supervisor, department head, or the Safety Coordinator.
10. Personal protective equipment (PPE) must be worn when performing specific duties that require its use to ensure worker safety. Persons refusing to wear PPE may be subject to disciplinary action. Selection of the correct PPE may require assistance. Contact your supervisor or Safety Coordinator for guidance.
11. Employees must inform supervisors when they have significant allergies that might be encountered while at work (e.g., bee stings). This information is to be passed on to the Safety Coordinator. The person with a severe allergy should carry and be familiar with how to use an ANA Kit or Epi-pen.
12. Avoid manual lifting of materials, articles, or objects which are too heavy. Whenever possible, use mechanical lifting devices to move heavy objects.
13. Smoking is prohibited in city buildings, facilities, vehicles, and enclosed equipment. Smoking is only permitted in designated smoking areas. Everyone must observe any "No Smoking" signs.
14. Avoid parking, even temporarily, in designated fire lanes.

15. Employees are responsible for reporting to their supervisor, Safety Coordinator, and Human Resources Director whenever they become sick or injured at work. All injuries, no matter how minor, must be reported immediately.
16. Employees must keep their work area clean and orderly. Poor housekeeping habits can be a serious safety hazard. Do not leave materials in aisles, walkways, stairways, roads, or other points of egress.
17. Any damaged equipment or missing machine guards must be reported to your supervisor.
18. All warning signs, signals, and alarms shall be obeyed.
19. Employees shall not use unfamiliar tools or equipment without proper instruction and permission from their immediate supervisor. Always use the correct tool for the job; do not improvise.
20. Loose or ragged clothing, dangling neckwear, and bracelets shall not be worn around moving parts of machinery or electrically energized equipment.
21. Firefighting equipment shall be maintained per the manufacturer's instructions.
22. Whenever mobile equipment or vehicles are equipped with seatbelts, the operator and passengers shall use the belts whenever the equipment is moving.
23. Flammable liquids are to be handled and stored only in approved safety containers. Proper lids and caps must always be used on storage containers. Cloth, paper, and other "makeshift" lids and caps are prohibited. Use bonding cables while filling containers holding flammable liquids.
24. Never dispense gasoline into a fuel tank while the engine is running.
25. Do not dispose of any hazardous materials or flammable liquids by pouring them down a sewer or drain. Guidance in proper disposal of hazardous materials is available from the Safety Coordinator.
26. Compressed gas cylinders should be stored in an upright position and chained or otherwise secured. Where not connected to a service line or manifold system, the protective caps for these cylinders shall be in place.
27. Flash-back arrestors or reverse gas flow check valves must be in place on all oxy-acetylene fuel cutting equipment.
28. Compressed air shall not be used for cleaning clothing or a person's body.
29. Do not attempt to repair defective wiring or other electrical equipment. Report defective electrical equipment to your supervisor. Electrical equipment can only be repaired or serviced by a qualified electrician.
30. Faulty or makeshift ladders must not be used.
31. When lifting, employees should have a secure footing, bend their knees, keep their back straight, take a firm hold of the object being lifted, and slowly straighten their legs. If the employee must turn with a load, they must turn their feet and the whole body. DO NOT

twist the back. Avoid reaching while lifting or putting the object down. If the object is too heavy, get assistance.

32. If something looks unsafe, it probably is. IF YOU ARE IN DOUBT ... ASK!



## Program Overview

The City of Deadwood will implement a safety program using a 6-pronged approach. Each section of the program is necessary to ensure an effective and efficient safety program is established.

To be effective, the safety program must have buy-in at every level of employee. From the Commission down to the newest seasonal employee, everyone must take an active role in the safety of the employees. The entire program will be overseen by the designated Safety Coordinator and will be implemented by department heads, supervisors, and individual employees.

1. **Safety training.** Safety training is a necessity not only for new hires but also for current employees to be refreshed and kept up to date on industry standards. The Safety Committee will accomplish quarterly safety training that covers general industry safety topics. Each department is encouraged to conduct department-specific training weekly. Safety training will be tracked by the Safety Coordinator.
2. **Safety inspections.** Safety inspectors will be assigned to each department. The inspectors will be trained in identifying and abating hazards. Hazards will be noted and maintained by the Safety Coordinator in a master hazard log. Each department will be responsible for correcting hazards within their department and facilities.
3. **Safety committee.** A strong safety committee is pivotal to the success of any safety program. The safety committee will be comprised of multiple employees at all levels of the organization. The safety committee will review accidents/incidents, review the master hazard log, and innovate on strategies to make us safer.
4. **Risk mitigation.** Risk mitigation is where safety comes to life. Each department within the City of Deadwood is different and has different tasks to complete. The departments' leadership will be responsible for implementing Standard Operating Procedures (SOPs) and job hazard assessments to ensure the safety of their staff.
5. **Accident/incident reporting.** Accident/incident reporting must be done accurately and timely. Reporting is a way to collect data and to track trends. These trends can be used to prevent future accidents by identifying ways to mitigate risk.
6. **Safety awards.** The City of Deadwood believes in rewarding safe behavior. Rewarding safe behavior results in a strong safety culture and accountability amongst all staff. The Safety Coordinator will establish and manage an effective awards program that promotes safe behavior and awards those that have gone above and beyond in the name of safety.

## Chapter 1: Safety Training

1. Safety training is a critical part of any safety program. Safety training must be relevant and interesting to keep employees engaged and thinking critically. The objective of safety meetings and briefings is to increase the employee's awareness of the hazards associated with all operations.

Safety training will be conducted quarterly and will be required for all employees. The meetings will be informal and may include:

- (a) Discussion of new or changed procedures or policies.
- (b) Discussion of problems or potential problem areas.
- (c) Classes or videos of maintenance, safety, and occupational health-related nature.
- (d) General industry safety topics.

We will utilize safety training resources such as in-house experts, private companies, or the South Dakota Municipal League to conduct relevant and interesting training.

The following classes or similar topics will be presented on an annual basis.

Accident and Injury Prevention	Ergonomics	Industrial Hygiene
Bloodborne Pathogens	Excavation, Trenching, and Shoring	Lifting and Your Back
Common Injuries/Slips, Trips, and Falls	Exits-Emergency Action Plan	Lockout/Tagout
Compressed Gas Safety	Eye and Face Protection	Office Safety
Confined Spaces	Fall Protection	PPE
Traffic Control	Portable Fire Extinguishers	Working Around Powerlines
Electrical Hazards	Global Harmonization System	Respiratory Protection
Basics of Electricity	Hazardous Waste	Hearing Conservation

2. Safety Stand-Down Day: Once a year, we will host a safety stand-down day. This day will be a full day dedicated to the safety and health of its employees. An overview of the previous year's accidents/incidents will be covered, new safety policies and procedures will be introduced, and safety professionals and guest speakers may also be utilized at the safety stand-down day.

3. **New Employee Safety Training:** New employees will attend new employee safety training. A safety training regimen relevant to the new employee's position will be completed before the employee is released to work in the field. A list of required classes will be available in the HR office or with the Safety Coordinator. Training will be accomplished using interactive online classes, videos, and PowerPoint presentations.
  
4. **Department Training:** In addition to new employee training and monthly training, each department is encouraged to conduct safety training that is specific to their duties. Examples could be bucket truck training for park staff, snow removal operations for the street staff, or chlorine gas training for water/sewer staff. This training should be documented with a roster and turned into the Safety Coordinator for tracking and filing.

## Chapter 2: Safety Inspections

1. For the City of Deadwood to take a proactive stance on safety, inspections will take place annually. Inspectors who have completed the 30-hour OSHA training program will inspect all facilities and identify potential safety hazards. The results will be recorded and passed on to the Safety Coordinator and will then be recorded on the master hazard log, which will track safety hazards and corrections. Safety hazards that can be found and corrected will aid in preventing workplace injuries to all employees.
2. The City of Deadwood may utilize services OSHA provides through its consultation inspections, which are voluntary inspections that OSHA offers to agencies wanting to improve safety within their organizations.
3. The Safety Coordinator can coordinate noise hazard surveys at facilities. Noise hazard surveys will give an indication of decibel levels in and around buildings, as well as during various tasks and operations. This information can then be used to post placards in areas where hearing protection is required.
4. Vehicle inspections: Before operating a vehicle for the first time each day, the driver must walk around and inspect the vehicle for damage, inoperable lights, loose hardware, under-inflated tires, or any other condition which may create an unsafe situation. It is the driver's responsibility to see that a vehicle is in safe operating condition. Employees will conduct the inspection per the appropriate approved checklist. Completed checklists will be turned in to the employee's immediate supervisor and will be maintained on file for a minimum of 1 year. For further information refer to the motor vehicle use policy located in appendix J.

### Chapter 3: Safety Committee

1. The City of Deadwood Safety Committee is the focal point of the accident prevention and safety effort. The safety committee will consist of the following individuals: Safety Coordinator, department representatives, and any other individuals who aid in promoting a safety culture. The safety committee will be chaired by the Safety Coordinator, and meeting minutes will be documented. All members of the safety committee are encouraged to make their participation a priority.
2. The primary purpose of the safety committee is to promote a culture of safety within the City of Deadwood. The committee meetings allow for the exchange of ideas and the development of policies and procedures necessary to counter, correct, and control hazards. The safety committee will discuss the following items: accident/incident log, master hazard log, unsafe trends, safety policies, and safety awards. The committee will act as an open forum to discuss new and innovative ideas that pertain to the safety culture.

The safety committee will meet monthly for the following purposes:

- a. **Information collection:** To identify hazards through the exchange of ideas, discussions, and reports of existing deficiencies.
- b. **Analysis:** To identify systemic hazard causes. Committee minutes will track systemic problems through to their resolution. Those systemic problems that cannot be resolved at the committee will be forwarded to the leadership.
- c. **Countermeasures:** The committee will formulate safety policies and procedures. Meetings will be used to identify, analyze, and control systemic problems. Identified countermeasures must eliminate or control the identified systemic problem.
- d. **Implementation:** The committee will serve as the primary forum for leadership and will be the driving force that executes the safety culture.
- e. **Control:** The committee will identify or develop specific measurable standards to monitor the effectiveness of each identified countermeasure. All internal and external sources will be periodically reviewed to monitor overall safety program effectiveness.

**Meeting Schedule:** The Safety Coordinator will notify the committee members of meeting dates and times by publishing a hard copy agenda of topics to be discussed. Committee members may receive a notification via email or routine distribution. Hard

copies will be provided at the meeting. Anyone wishing to have an issue placed on the agenda should notify the Safety Coordinator as far in advance of scheduled meetings as possible.

**Attendance:** All committee members must attend if available. An open invitation to the safety committee is afforded to the other front-line City of Deadwood Employees if they desire to attend.

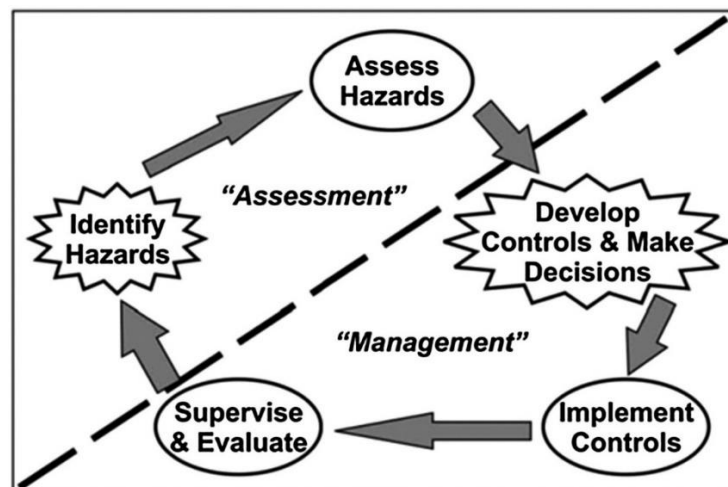
**Members:** Committee members are to act as a point of contact within their department for safety. Each member will take immediate, appropriate action to correct or eliminate all known unsafe acts or procedures observed or reported to them. The intent of committee membership is to ensure all departments are represented.

## Chapter 4: Safety Program Monitoring and Risk Mitigation

1. **Safety and Accident Prevention Program Monitoring:** The City of Deadwood’s Safety Coordinator will monitor the success of the safety program by periodically reviewing program elements with department heads, superintendents, and safety inspectors. The Safety Coordinator will monitor and analyze the results of external and internal inspections and surveys to determine the effectiveness of programs. Deficient items noted during scheduled inspections, informal observations, or reports by individuals will be recorded in the master hazard log pending corrective action. Frequent review of open hazard log items serves to promote timely corrective actions and keeps leadership informed. The Safety Coordinator will ensure that individuals employed by the City of Deadwood receive the necessary safety and job-related training to successfully implement the safety program.
2. **Safety Management Requirements:** The safety program is based on a 5-step Risk Management Process and uses “Safety By Choice, Not by Chance” as the current safety philosophy of accident prevention.
3. **Risk Mitigation Process:** The safety program will utilize the 5-step risk mitigation (RM) process to ensure the safety of its employees.

The 5 steps are cyclical and are as follows:

- Identify hazards
- Assess the hazards
- Develop controls and make decisions
- Implement the controls
- Supervise and evaluate



It is imperative that each employee learn this 5-step process to mitigate risk in the field. This 5-step approach, when utilized correctly, can significantly mitigate risk in the workplace, resulting in fewer accidents and better overall safety culture.

The principles of RM are:

- Integrate RM into all phases of tasks and operations.
- Make risk decisions at the appropriate level.
- Accept no unnecessary risk.
- Apply RM cyclically and continuously.

RM is the City's process for helping departments and individuals make informed decisions to reduce or offset risk. Using this process increases operational effectiveness and the probability of task accomplishment. It is a systematic way of identifying hazards, assessing them, and managing the associated risks. RM outlines a disciplined approach to express a risk level in terms readily understood at all levels.

Except in time-constrained situations, planners deliberately complete the process. Departments develop data and use charts, codes, and numbers to analyze probability and standardize the analysis of risk. They use this standardization to manage risk in a logical and controlled manner over time. However, the 5-step process is compatible with intuitive and experience-based decision making.

4. **Job Hazard Analysis:** An integral part of the risk mitigation process is job hazard analysis (JHAs). JHAs are a tool that employees can use to identify and assess hazards, implement controls, and utilize proper PPE. JHAs will be created by department leadership and will be available to every department employee. JHAs shall be covered before doing any task assigned by the supervisor. Leadership will use the standard JHA form provided to them by the Safety Coordinator. JHAs should be stored both digitally as well as in hard copy format, which should be placed in a binder that is accessible to all employees at all times. JHAs are meant to be a living document and should change as new hazards are identified and analyzed. Any questions regarding JHAs shall be directed to the employee who created the JHA, department leadership, or Safety Coordinator.



## Chapter 5: Accident and Incident Reporting

Accident and incident reporting is an important tool to track trends and prevent future accidents. Employees must understand that failure to report an accident or incident could lead to more catastrophic accidents in the future. Accident/incident report forms, as well as the first report of injury forms, are available from the Safety Coordinator, Human Resources, and supervisors. In the event of an incident, the employee must contact their immediate supervisor to initiate the reporting process. Accident/incident forms will be turned in to the office and the first report of injury reports will be turned in to human resources. Both reports will be forwarded to the Safety Coordinator for tracking purposes.

- 1. Accident/Incident Reporting:** Accident/incident reporting, no matter how small an incident, is critical in tracking incident trends. **ALL ACCIDENTS/INCIDENTS, NO MATTER HOW MINOR NEED TO BE REPORTED USING THE ACCIDENT/INCIDENT REPORT FORM.** Also, an estimated cost of damage and photos of the incident need to be included. All information will then be submitted to the finance office. If private property is damaged, a police report must be included in the information submitted to the finance office. If an employee finds property that has been damaged by a private citizen, dispatch must be called, and a report filed.

If trends can be established, mitigation factors can be put in place to prevent future accidents. Employees must fill out the accident/incident report as thoroughly as possible for the Safety Coordinator to understand the scenario. Equally important is providing information on the report as to how the accident/incident could have been prevented. A recent study completed by the National Highway and Transportation Safety Administration shows that 94% of all car accidents are caused by human error, which means most accidents are preventable. Accident/incident reports will be forwarded on to the Safety Coordinator and placed in a master tracking log to track trends in personnel, departments, equipment, and specific operations.

- 2. Near Miss Reporting:** Equally important as accident/incident reporting is near-miss reporting. Thousands of near misses occur each year and go unreported. Even though an injury or incident did not occur, it does not mean that one could not occur in the future. Examples are slipping on ice from a broken gutter or a missing guard on a piece of equipment. A “good catch form” is available from the Safety Coordinator to record near misses. If an employee has a near miss or sees a potential safety hazard, notify the supervisor, complete the good catch form and return to the Safety Coordinator to get the near miss or hazard placed on the master hazard log.

**3. Injury Reporting and Procedures:** Follow the below procedures for injury reporting.

**Minor First Aid Treatment**

First aid kits will be inspected as part of departmental inspections. If you sustain an injury or are involved in an accident requiring minor first aid, treatment follow this procedure:

1. Administer first aid treatment to the injury or wound.
2. If a first aid kit is used, indicate usage on the accident investigation report.
3. Access to a first aid kit is not intended to be a substitute for medical attention.
4. Inform your supervisor so the injury can be evaluated, and a decision made if further treatment may be necessary.
5. The supervisor will provide details for the completion of the accident report form.

**Non-Emergency Medical Treatment**

If you sustain an injury requiring treatment other than first aid:

1. Inform your supervisor.
2. Proceed to a clinic or medical facility to receive treatment. If possible, have a co-worker or supervisor drive you.
3. Provide details for the completion of the First Report of Injury form.

**Emergency Medical Treatment**

If you sustain a severe injury or you are witnesses to an injury requiring emergency treatment:

1. Call 911 and seek assistance from a co-worker or anyone available in the area.  
Notify those around you that an emergency exists and solicit help.
2. If you are injured, do not drive; call for help.
3. If you are providing transportation assistance, do not let the injured person drive.
4. If leaving the site to seek treatment, let those around you know that treatment is being sought, and where that treatment is being done.
5. Notify the department head, who will assure department procedures are being followed.
6. Provide details for the completion of the accident investigation report.

3. **Report of Unsafe Working Conditions:** Employees identifying an unsafe working condition will make every attempt to correct the condition immediately. If the condition cannot be corrected, the employee shall contact their immediate supervisor. A good catch form will be filled out and turned into the Safety Coordinator. Forms will be available in most department areas or by contacting the Safety Coordinator.
  
4. **Disciplinary Action:** Failure to follow safety policies and procedures may result in disciplinary action. Disciplinary action will follow the disciplinary process as outlined in the Personnel Policy Manual.

# Active Threat

## Overview

Workplace violence has emerged as an important safety and health issue in the workplace. Although a specific workplace violence rule has not been adopted, we recognize the impact workplace violence can have on our employees.

The Safety Coordinator and Chief of Police are responsible for periodically reviewing this plan, updating it as necessary, and implementing any changes where appropriate.

A copy of this plan shall be kept in an accessible location in all departments and be available for review by all employees. Also, this plan shall be kept in the safety coordinators office.

**\*This plan is a general plan that applies to all departments. Each department shall create its own anti-violence/security program based on each department's facilities and needs.**

## 1. PURPOSE

This policy is issued to provide guidance in the event City of Deadwood employees are confronted with an active threat incident in or around the workplace. This policy is not specific to any one location but provides general concepts that are amplified in each facility's Emergency Action Plan (EAP).

## 2. POLICY STATEMENT

Active threat situations often end before law enforcement arrives. Therefore, individuals must be prepared to react to an active threat situation. This document guides employees and volunteers working within or in the area of a facility.

**Note:** This guidance is intended to provide an overview of how to respond to an active threat situation. **Employees should refer to the Emergency Action Plan for their specific work location and additional information.**

## 3. PROCEDURES

The following procedures will be followed at all locations during and after an active threat incident.

## A. Employee Actions

All employees should consult the EAP specific to their work location for information on responding to an active threat incident. However, the following general principles will apply to all employees and volunteers.

### 1. “Run” (Evacuate)

- a. If there is an accessible escape path, attempt to evacuate per the EAP procedures, or any clear exit.
- b. Evacuation should occur whether or not others agree to follow.
- c. Leave your belongings behind.
- d. If possible, help others escape, but do not wait for others to leave.
- e. If possible, prevent individuals from entering an area where the active threat may be.
- f. Follow instructions from law enforcement officers.
- g. Keep your hands visible at all times.
- h. Do not attempt to move wounded people.
- i. Call 9-1-1 when it is safe to do so.
- j. Assist individuals that have Access and Functional Needs (AFN)
- k. Lead visitors to safety

### 2. “Hide”

- a. If evacuation is not possible, find a place to hide where the active threat is less likely to find you such as an office with a closed and locked door.
- b. Your hiding place should (1) be out of the active threats view, (2) provide protection if shots are fired in your direction, and (3) not trap you or restrict your options for movement.
- c. Lock the door and blockade it with heavy furniture to prevent an active threat from entering your work area.
- d. If an active threat is nearby (1) lock the door, (2) silence your cell phone or other electronic devices (DO NOT merely switch to vibrate), (3) turn off any source of noise, (4) hide behind large items (cabinets, desk furniture), and (5) remain quiet.
- e. Identify ad-hoc weapons if needed.

### 3. “Fight” (Take action against the active threat)

As a last resort, and only when your life is in imminent danger, attempt to disrupt or incapacitate the active threat by (1) acting as aggressively as possible against him or her, (2) throwing items and improvising weapons, (3) yelling, and (4) committing to your actions because your life may depend on it.

## 5. Contact Law Enforcement

- a. If you can run or hide, take the following steps:
  1. Keep calm
  2. Contact law enforcement if it is safe to do so.
  3. Dial 9-1-1.
  4. If you cannot speak, leave the phone line open to allow the dispatcher to listen to the incident.
  5. Do not assume someone else has called.
  
- b. If you can communicate with law enforcement, report the following information:
  1. Threat location, number of suspects, and direction of travel if known.
  2. Whether or not the shooting was/is occurring.
  3. If known, the threat(s) name and location.
  4. Threat's description (race, gender, clothing, physical features).
  5. Type of weapons (handgun, shotgun, long gun), backpacks or duffle bags, separate explosions from gunfire, IEDs, etc.
  6. The building name and room number of your location.
  7. The number of people at your specific location.
  8. Casualties including the number of persons injured and types of injuries.

## B. Law Enforcement Arrival

Law enforcement's priority is to stop the active threat. The first officers to arrive at the scene will not attend injured persons. Rescue teams of additional officers and emergency medical personnel will follow and attend to the injured.

### 1. How to React When Law Enforcement Arrives:

- a. Follow officers' instructions.
- b. Put down any items in your hands (i.e., bags, jackets, cell phones, improvised weapons).
- c. Immediately raise hands and spread fingers.
- d. Keep your hands visible at all times.
- e. Avoid making quick movements toward officers such as attempting to hold on to them for safety.
- f. Avoid pointing, screaming, or yelling.
- g. Do not stop to ask officers for help or directions when evacuating. Instead proceed in the direction from which officers are entering the premises, or as directed.

## **2. Interacting with Law Enforcement after an active threat Incident:**

When the active shooter incident concludes, law enforcement will treat the entire workplace as a crime scene and may require employees to remain in the area until all witnesses have been identified and questioned.

### **C. Management Preparedness Actions**

#### **1. Emergency Action Plan (EAP)**

Managers will familiarize themselves with their work location EAP before an emergency and make the EAP available to their employees and others assigned to the location. Additional activities at each work location will be:

- a. Develop and conduct training and exercises in coordination with the Police Department and the Safety Coordinator specific to each work location.
- b. Update the EAP annually and as needed post-incident.

#### **2. Post-Incident**

- a. Account for all individuals.
- b. Notify family members of the injured or deceased.
- c. Activate the reunification program for families and loved ones of those injured or deceased.
- d. Assess mental health needs and contact resources to assist as needed.
- e. Assess personnel gaps in critical areas and restore operations as soon as feasible.
- f. Conduct re-training as required.
- g. Activate media relations through the Legal Department or appropriate law enforcement agency.
- h. If available, allow the City Attorney to address the media.

# Confined Space Entry Policy

## Overview

This policy has been developed to protect employees from the serious hazards associated with entering and working within confined spaces such as manholes, vaults, tunnels, and tanks. This policy establishes a permit-required confined space program to regulate entry into confined spaces and to ensure the safety of employees who enter or work in confined spaces.

## Definitions

**Attendant.** A trained individual, as required by this policy, stationed outside a permit-required confined space that monitors the authorized entrants inside the space. An attendant has the authority to order exit from a permit-required confined space.

**Authorized Entrant.** A trained individual, as required by this policy, who is authorized by the entry permit to enter a permit-required confined space.

**Confined Space.** A space that: (1) is large enough and so configured that an employee can bodily enter and perform assigned work; (2) has limited or restricted means for entry or exit; and (3) is not designed for continuous employee occupancy. [Note: Not all confined spaces require permits for entry. See the definition of a permit-required confined space.]

**Entry.** The act by which any part of a person's body passes through the plane of an opening into a permit-required confined space.

**Entry Supervisor.** A trained individual, as required by this policy, who is responsible for: (1) determining if acceptable entry conditions are present at a permit-required confined space; (2) authorizing entry and overseeing entry operations; and (3) terminating entry.

**Entry Permit.** The written document that allows and controls entry into a permit-required confined space. These permits can be obtained from the Safety Coordinator or supervisor.

**Hazardous Atmosphere.** An atmosphere that may expose employees to a risk of death, injury, incapacitation, impairment of the ability to escape unaided, or acute illness from one or more of the following causes: (1) flammable gas, vapor, or mist above 10% of the lower explosive limit (LEL); (2) airborne combustible dust concentration that obscures vision at a distance of five feet or less; (3) atmospheric oxygen concentration below 19.5% or above 23.5%; (4) the atmospheric concentration of any substance that would result in employee exposure above the PEL, ACGIH TLV, or an exposure level considered unacceptable by the Department of Environmental Health and Safety (whichever is more protective); or (5) any other atmospheric condition immediately dangerous to life and health.



**Hot Work.** Work that results in a source of ignition, such as welding, cutting, burning, or heating. Such work in a permit-required confined space must be approved by the supervisor.

**Permit-Required Confined Space.** A confined space that has one or more of the following characteristics: (1) Contains or has a potential to contain a hazardous atmosphere; (2) contains a material with the potential for engulfing an entrant; (3) has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls, or a floor which slopes downward and tapers to a smaller cross-section; or (4) contains any other recognized serious safety or health hazard.

The following is a partial listing of spaces that are typically considered permit-required confined spaces:

- a. Sewer/Storm manholes
- b. Electrical manholes
- c. Steam pits
- d. Heat Plant boilers
- e. Telephone vaults
- f. Several Water Pollution Control lift/pump stations
- g. Water meter pits
- h. Street manways
- i. Process tanks and related equipment

[Note: Confined spaces that normally present no hazards can become permit-required if hazards are introduced into the confined space (e.g., by painting or cleaning with solvent-based products, by welding, etc.)]

**Retrieval System.** The equipment used for the non-entry rescue of persons from permit-required confined spaces. The system includes a line or rope attached at one end to the back "D" ring (or 2 shoulder "D" rings) of a full-body harness worn by an authorized entrant, and with its other end attached to a mechanical lifting device or a fixed point outside the permit-required confined space. A mechanical lifting device is required for all vertical entries greater than 5 feet in depth. A harness and retrieval line is required in all permit-required confined space entries unless attachment increases the hazard potential to the entrant (a harness may still be required).

## Procedures for Confined Space Entry

1. An individual anticipating the need to enter a confined space must contact the appropriate Entry Supervisor and receive a completed written permit before such an entry.
2. The individual requesting the permit will review the department's job hazard analysis for confined space entry.

3. The entry supervisor will complete and approve the permit and verify that equipment, monitoring, training, and other safety procedures (e.g., lockout/tagout) are adequate for safe entry and work tasks.
4. In an emergency, when such an entry cannot be scheduled in advance and the Entry Supervisor is not available, the individual seeking a permit will contact the department head or Safety Coordinator.
5. Before entry, the entry supervisor will verify that the entrant and attendant are aware of the following:
  - a. The hazards of the permit space;
  - b. The measures for isolation of the permit space;
  - c. The measures (such as lockout/tagout, equipment and procedures for purging, inserting, ventilation, and flushing, etc.) used to remove or control potential hazards;
  - d. Acceptable environmental conditions which must be maintained during entry;
  - e. Testing and monitoring equipment and procedures required to verify that acceptable environmental conditions are being maintained during entry;
  - f. The rescue and other services which would be summoned in case of emergency and the means of communication with those services;
  - g. Rescue equipment to be provided on-site, if necessary;
  - h. The communication procedures and equipment used by authorized entrants and attendants to maintain contact;
  - i. The personal protective equipment, such as hard hats, clothing, harnesses, and retrieval lines provided to ensure employee safety. Respirator use will be per the established policy. The need for non-sparking tools will be considered by the permit-authorizing official; and
  - j. The fact that the entry supervisor also has the authority to oversee activities during the entry.

### **Required Notifications Before Confined Space Entry**

1. Facilities Operations
  - a. Before a permitted confined space entry, the attendant or entrant must notify the facility of the planned entry.
  - b. Notification to the facility shall include the exact location of the space (e.g., NE corner of WWTP), the name of the caller, and the estimated duration of the entry.
  - c. Upon completion of the entry, the attendant or entrant must notify the facility that entry operations have been completed in the confined space.
  - d. After entry operations, the completed permit must be kept on file with the department superintendent for a minimum of one year.

### **Duties and Training Requirements**

1. Authorized Entrants

The person(s) authorized to enter a confined space will be responsible for and receive training in the following:

- a. The knowledge of hazards that may be faced during entry, including the mode, signs or symptoms, and consequences of the exposure.
- b. Proper use of equipment, which includes:
  1. Atmospheric testing and monitoring equipment.
  2. Ventilating equipment needed to obtain acceptable entry conditions.
  3. Communication equipment necessary to maintain contact with the authorized attendant.
  4. Personal protective equipment, as needed.
  5. Lighting equipment, as needed.
  6. Barriers and shields, as needed.
  7. Equipment, such as ladders, needed for safe ingress and egress.
  8. Rescue and emergency equipment, as needed.
  9. Any other equipment that is necessary for safe entry into and rescue from permit spaces.
- c. Communication with the attendant to enable the attendant to monitor entrant status and to enable the attendant to alert entrants of the need to evacuate the space if required.
- d. Alerting the authorized attendant whenever:
  1. The entrant recognizes any warning sign or symptom of exposure to a dangerous situation, or
  2. The entrant detects a condition prohibited by the permit.
- e. Exiting the permit space as quickly as possible whenever:
  1. An order to evacuate has been given by the attendant or the entry approver;
  2. The entrant recognizes any warning sign or symptom of exposure to a dangerous situation;
  3. The entrant detects a prohibited condition; or
  4. An evacuation alarm is activated.

## 2. Authorized Attendants

Persons authorized to perform duties as authorized attendants will be responsible for and receive training in the following:

- a. Knowing the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of exposure.
- b. Being aware of possible behavioral effects of hazard exposure in authorized entrants.
- c. Continuously maintaining an accurate count of authorized entrants in the permit space and ensuring that the means used to identify authorized entrants accurately identifies who is in the permit space.
- d. Remaining outside the permit space during entry operations until relieved by another attendant.
- e. Attempting non-entry rescue if proper equipment is in place and the rescue attempt will not present further hazards to the entrant or attendant.
- f. Communicating with authorized entrants to monitor entrant status and to alert entrants of the need to evacuate the space when conditions warrant.
- g. Monitoring activities inside and outside the space to determine if it is safe for entrants to remain in the space and ordering the authorized entrants to evacuate the permit space immediately under any of the following conditions:
  1. If the attendant detects a prohibited condition.
  2. If the attendant detects the behavioral effects of hazard exposure in an authorized entrant.
  3. If the attendant detects a situation outside the space that could endanger the authorized entrants.
  4. If the attendant cannot effectively and safely perform all the duties required by this program.
- h. Summoning rescue services as soon as the attendant determines that authorized entrants may need assistance to escape from permit space hazards.
- i. Taking the following actions when unauthorized persons approach or enter a permit space while entry is underway:
  1. Warning the unauthorized persons that they must stay away from the permit space.
  2. Advising the unauthorized persons that they must exit immediately if they have entered the permit space.
  3. Informing the authorized entrants and the entry approver if unauthorized persons have entered the permit space.
- j. Performing no duties that might interfere with the attendant's primary duty to monitor and protect the authorized entrants.

### 3. Entry Supervisors

Persons authorized to perform duties as entry approvers will be responsible for and receive training in the following:

- a. Determining that the entry permit contains the required information before authorizing or allowing entry.
- b. Determining that the necessary procedures, practices, and equipment for safe entry, as indicated on the permit, are in effect before allowing entry.
- c. Determining, at appropriate intervals, that entry operations remain consistent with the terms of the entry permit and that acceptable entry conditions are present.
- d. Canceling the entry authorization and terminating entry whenever acceptable entry conditions are not present.
- e. Taking the necessary measures for concluding an entry operation, such as closing off a permit space and canceling the permit, once the work authorized by the permit has been completed.

Employees may alternate duties as entrants, attendants, and/or entry approvers provided they have received training in each designation. Any permit space entry must have at least two individuals present: e.g., an authorized entrant and authorized attendant who serve as the entry supervisor.

Entry Supervisors will receive training in each designation of the authorized entrant and attendant.

#### 4. Rescue Team Members

*Under no circumstance will the attendant attempt to rescue the entrant in an emergency. Call 9-1-1.*

The local fire department is the designated rescue team for confined space emergencies. Each rescue team member will receive training in each designation of the authorized entrant, attendant, and entry approver. Also, each member of the rescue team will be certified in both first aid and CPR.

Hands-on practice rescues will be conducted by the rescue team members in simulated confined spaces representative of the permit spaces present.

### Outside Contractors

1. This Policy must be made available for review to all prospective bidders of a contract involving activities subject to confined space operations.

The City of Deadwood may:

- a. Inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program.
- b. Apprise the contractor of the potential hazards associated with the spaces that make them permit spaces.

- c. Apprise the contractor of any precautions or procedures that will be used to protect employees in or near permit spaces where contractor personnel will be working.
- d. Coordinate entry operations with the contractor, when the contractor personnel will be working in or near permit spaces.
- e. Debrief the contractor, after entry operations, on the procedures followed, and any hazards confronted or created during entry.

## City of Deadwood Responsibilities

Departments will:

1. Identify all known permit-required confined spaces for work areas in each shop, division, or unit within their department. Contact the Safety Coordinator for assistance in identifying potential permit spaces.
2. Prevent unauthorized entry into permit spaces by ensuring that danger signs are posted at the entrance of every permit-required confined space which:
  - a. can be entered without the use of a special tool or key; or
  - b. can be entered by persons not authorized under this policy to enter the space.

Danger signs will read:

**DANGER**

**PERMIT-REQUIRED CONFINED SPACE**

**DO NOT ENTER**

3. Conduct periodic surveys of work areas to determine if any new permit-required confined spaces have been discovered or created in their work areas. Departments must notify the Safety Coordinator whenever new permit-required confined spaces are encountered and should request assistance in identifying and evaluating these spaces.
4. Ensure that all employees whose duties require them to work in or around permit-required confined spaces receive appropriate confined space training before engaging in the work.

5. Procure and ensure the use of the equipment necessary for safe entry into permit-required confined spaces including:
  - a. Gas detection/monitoring equipment
  - b. Appropriate personal protective equipment (e.g., protective clothing, gloves, boots, goggles, hearing protection, etc.)
  - c. Ventilation equipment
  - d. Communications equipment (e.g., two-way radios)
  - e. Lighting
  - f. Ladders or other equipment for safe ingress and egress
  - g. Barricades, barriers, and/or shields
  - h. Emergency rescue/retrieval equipment (including full-body harnesses and mechanical retrieval devices)

When contracting with outside firms, comply with the Outside Contractor section of this program.

Supervisors will:

1. Notify employees of the Confined Space Entry Policy and make the policy readily available to them.
2. Identify and schedule all affected employees for initial training in Confined Space Entry with the Safety Coordinator.
3. Schedule employees for retraining with the Safety Coordinator whenever retraining appears necessary due to changes in the workplace or whenever an observation or inspection indicates an employee is not following proper confined space entry procedures or lacks understanding of the proper procedures.
4. Maintain copies of attendance records of training sessions.

Authorized Entrants and Attendants will:

1. Familiarize yourself and comply with the Confined Space Entry Policy.
2. Attend training sessions, as required by the policy.
3. Notify supervisors of any change in their workplace or job duties which prevent or hinder safe entries into confined spaces.
4. Carry out their assigned duties during confined space entries, according to this policy.

Entry Supervisors will:

1. Issue confined space permits per this policy.
2. Verify that proper training has been completed before entry for entrants, attendants, and the entry approver.
3. Attend training sessions, as required by this policy.

Safety Coordinator will:

1. Develop, implement, and maintain the Confined Space Entry Policy.
2. Perform annual reviews to evaluate the conformance to and adequacy of the confined space program.
3. Provide training for all aspects of confined space entry, as required by the policy.
4. Assist in hazard identification, equipment selection, and other technical support related to confined space entries, as needed.
5. Maintain attendance records of training sessions.
6. Maintain copies of completed permits.



# Control of Hazardous Energy (Lockout/Tagout)

## Overview

The Lockout/Tagout (LOTO) program establishes practices and procedures for the control of hazardous energy. All equipment with the potential for unexpected start-up during routine adjustment or maintenance is subject to the requirements of this program.

Implementation of this procedure shall ensure that all energy sources are completely isolated and locked out before the servicing of equipment. All potential sources of hazardous energy shall be identified before working on the subject equipment.

## Definitions

**Authorized employee:** A person who locks out or tags out machines or equipment to perform servicing or maintenance on that machine or equipment. An affected employee becomes an authorized employee when that employee's duties include performing servicing or maintenance covered by this program.

**Capable of being locked out:** An energy isolating device is capable of being locked out if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it. Other energy isolating devices are capable of being locked out if lockout can be achieved without the need to dismantle, rebuild, or replace the energy-isolating device or permanently alter its energy control capability.

**Energized:** Connected to an energy source or containing residual or stored energy.

**Energy isolating device:** A mechanical device that physically prevents the transmission or release of energy, including but not limited to the following: (1) A manually operated electrical circuit breaker; (2) A disconnect switch; (3) A manually operated switch by which the conductors of a circuit can be disconnected from all ungrounded supply conductors and, no pole can be operated independently; (4) A line valve; (5) A block; or (6) Any similar device used to block or isolate energy.

Push buttons, selector switches, and other control circuit type devices are not energy isolating devices.

**Energy source:** Any source for electrical, mechanical, hydraulic, pneumatic, chemical, thermal, or other energy.

**Live-Dead-Live rule:** A test for zero energy state where the operator tries to start the

equipment, then shuts it down, then tries to start it again.

**Lockout:** The placement of a lockout device on an energy-isolating device per an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.

**Lockout device:** A device that utilizes a positive means such as a lock — either key or combination type — to hold an energy-isolating device in the safe position and prevent the energizing of machines or equipment. Included are blank flanges and bolted slip blinds.

**Normal production operations:** The utilization of a machine or equipment to perform its intended production function.

**Qualified Person:** One familiar with construction, the operation of equipment, and the hazards involved. A qualified person has the skills and techniques to distinguish live parts from other parts of electric equipment. This person can determine the nominal voltage of exposed live parts and can maintain the clearance distances that will be specified for the voltages on which they will be working.

**Servicing and/or maintenance:** Workplace activities such as constructing, installing, setting up, adjusting, inspecting, modifying, and maintaining or servicing machines or equipment. These activities include lubrication, cleaning, or unjamming machines or equipment and making adjustments or tool changes, where the employee may be exposed to the unexpected energization or start-up of the equipment or release of hazardous energy.

**Tagout:** The placement of a tagout device on an energy-isolating device per an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.

**Tagout device:** A prominent warning device, such as a tag and a means of attachment, which can be securely fastened to an energy-isolating device per an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.

## When LOTO Applies

1. LOTO applies — and must occur — when servicing takes place during production operations and when any of the following conditions exist:
  - a. The employee must bypass guards or interlocks to perform the repair at the point of operation;

- b. The employee must place part of his or her body in contact with the point of operation source; or
  - c. The employee has to place any part of his or her body into a danger zone.
2. We realize that some work, such as troubleshooting, must occur on the job. When it does, provisions for employee safety must be made.

## Responsibilities and Authorities

### Supervisors will:

1. Ensure that employees de-energize equipment before working on it when the potential for unexpected release of energy exists.
2. Ensure that employees are aware of the lockout/tagout procedures for equipment relative to the project on which they are working.
3. Inform employees in their area of responsibility when equipment is being locked out/tagged out for repair.
4. Ensure that no employees attempt to restart equipment until it is verified that it is safe to do so following repair of the equipment using lockout/tag out procedures.
5. Verify that all qualified persons in their area have had the appropriate lockout/tag out training.

### Safety Coordinator will:

1. Ensure that all employees involved in the lockout/tagout program have had appropriate training.
2. Review the lockout/tagout program for compliance on an annual basis at a minimum.
3. Maintain and revise the LOTO program as required.
4. Direct the LOTO training program.

### Qualified Persons will:

1. Repair or service equipment as needed.
2. Ensure, where feasible, that all energy sources are locked out on a piece of equipment during repair or service.
3. Test equipment to verify that no residual energy exists following lockout and before working on the subject equipment.
4. Place a "Danger — Do Not Operate" tag on the energy source and/or control panel before working on the subject equipment.
5. Obtain assistance when necessary to properly repair or service a piece of equipment.
5. Remove locks and/or tags following the repair or servicing of subject equipment.
6. Coordinate multi-shift repair with the next shift to work on the equipment.

## Program Elements

### De-Energizing Equipment

1. Safe procedures that address de-energizing circuits and equipment must be used in LOTO.
2. The electricians performing LOTO will use the appropriate testing devices on the circuits according to the voltage level.
  - a. **“STOP”** buttons, interlocks, or other devices on equipment **are not** acceptable LOTO devices.
3. Stored electrical energy will be dissipated to ensure workers are not endangered.
  - a. Capacitors will be discharged. High capacitance elements need to be short-circuited and grounded if they pose hazards to personnel.
  - b. Stored non-electrical energy that could re-energize the electrical circuits shall be blocked or relieved to the extent possible.

### Application of Locks and Tags

1. Locks and tags will be placed on equipment used to de-energize circuits and equipment on which the work is to be performed.
2. The lock will be attached to assure that unauthorized personnel cannot re-open the circuit.
  - a. The tag (*“DANGER — DO NOT OPERATE”*) must state that unauthorized use is forbidden and that the tag cannot be removed.
3. Only the person who applied the lock(s) and tag(s) may remove the LOTO devices. The only instance in which a LOTO device may be removed exists when:
  - a. The employee is not at work to remove it **and** the “qualified person” contacts the employee to assure it is all right to remove his or her LOTO device.
  - b. The qualified person then must verify that all employees are clear of the circuits and equipment when it is re-energized.
4. Equipment that was not designed to accept locks must be tagged out of service.
  - a. This can only be done when you can demonstrate that tagging will provide an equivalent means of safety.
  - b. Equivalent means of safety can be the removal of an isolating circuit element, the opening of an extra disconnecting device, or blocking a controlling switch.
5. “Locks Only” can be used under the following conditions:
  - a. When one circuit or piece of equipment is de-energized;
  - b. When the work does not extend beyond the work shift; and
  - c. When employees working around the circuit are familiar with the procedure.

### Verifying De-Energized Conditions

1. The qualified person must verify that the equipment or controls cannot be restarted by testing the equipment, controls, or circuits with appropriate testing devices.

2. Testing procedures shall also verify that equipment that is back fed or has induced voltages has indeed been de-energized.
  - a. The qualified person shall verify any alternate sources of power that could be introduced into the electrical circuit.
  - b. The qualified person shall check voltage systems greater than 600 v, nominal, immediately after testing.

### Re-Energizing Equipment

1. The qualified person must perform tests and visual inspections that assure that the re-energization can take place.
  - a. All electrical jumpers, grounds, shorts, and other devices must be removed before re-energization.
  - b. Employees who are present at the re-energization shall be informed of any hazards and warned to stay clear of the process.

### Training

1. There are three types of employees: *authorized*, *affected*, and *all*. LOTO training is based on the relationship of the equipment being de-energized and the degree of knowledge that employees possess with regards to hazardous energy.
  - a. **“Authorized”** employees perform the actual energy control procedure. They know the details and how the hazards will be controlled and isolated. These are usually electricians or other maintenance crafts.
  - b. **“Affected”** employees are those who use the equipment that is undergoing repair. They will be in the area during the repair.
  - c. **“All”** employees refer to any employee on the job site. They need to understand the importance of LOTO.
2. Training includes the initial training, retraining, and certification. Authorized or affected employees will be retrained:
  - a. When job assignments change;
  - b. When new hazards are introduced into the work environment;
  - c. When energy control procedures change; and
  - d. When periodic inspections reveal any deficiencies in the program.

# Fire Prevention Plan

## Objective

The purpose of this Fire Prevention Plan is to eliminate the causes of fire, prevent loss of life and property by fire. It provides employees with information and guidelines that will assist them in recognizing, reporting, and controlling fire hazards.

## Background

The City of Deadwood is committed to minimizing the threat of fire to employees, visitors, and property. Each department's Emergency Action Plan spells out the procedures for responding to fires. This Fire Prevention Plan serves to reduce the risk of fires at our facilities by:

1. identifying materials that are potential fire hazards and their proper handling and storage procedures;
2. distinguishing potential ignition sources and the proper control procedures of those materials;
3. describing fire protection equipment and/or systems used to control fire hazards;
4. identifying persons responsible for maintaining the equipment and systems installed to prevent or control ignition of fires;
5. identifying persons responsible for the control and accumulation of flammable or combustible material;
6. describing good housekeeping procedures necessary to ensure the control of accumulated flammable and combustible waste material and residues to avoid a fire emergency; and
7. providing training to employees concerning fire hazards to which they may be exposed.

## Responsibility

Fire safety is everyone's responsibility. All employees should know how to prevent and respond to fires and are responsible for adhering to the plan regarding fire emergencies.

1. The **Safety Coordinator**, with assistance from the fire department and building inspector, shall manage the Fire Prevention Plan and shall maintain all records pertaining to the plan. The Safety Coordinator shall also:
  - a. Develop and administer the fire prevention training program.
  - b. Ensure that fire control equipment and systems are properly maintained.
  - c. Control fuel source hazards.
  - d. Conduct fire risk surveys (see Appendix A) and make recommendations.

2. **Supervisors** are responsible for ensuring that employees receive appropriate fire safety training and for notifying the Safety Coordinator when changes in operation increase the risk of fire. Supervisors are also responsible for enforcing the fire prevention and protection policies.
3. All **employees** shall:
  - a. Complete all required training before working without supervision.
  - b. Conduct operations safely to limit the risk of fire.
  - c. Report potential fire hazards to their supervisors.
  - d. Follow fire emergency procedures.

## Plan Implementation

### 1. Good Housekeeping

To limit the risk of fires, employees shall take the following precautions:

- a. Minimize the storage of combustible materials.
- b. Make sure that doors, hallways, stairs, and other exit routes are kept free of obstructions.
- c. Dispose of highly combustible waste in covered, airtight, metal containers.
- d. Use and store flammable materials in well-ventilated areas away from ignition sources.
- e. Limit the use of flammable cleaning products.
- f. Keep incompatible (i.e. chemically reactive) substances away from each other.
- g. Perform “hot work” (i.e. welding or working with an open flame or other ignition sources) in controlled and well-ventilated areas.
- h. Keep equipment in good working order (i.e. inspect electrical wiring and appliances regularly and keep motors and machine tools free of dust and grease).
- i. Ensure that heating units are safeguarded.
- j. Report all gas leaks immediately to their immediate supervisor. The supervisor shall ensure that all gas leaks are repaired immediately upon notification.
- k. Repair and clean up flammable liquid leaks immediately.
- l. Keep work areas free of dust, lint, sawdust, scraps, and similar material.
- m. Do not rely on extension cords as a permanent electrical solution and do not overload circuits with multiple pieces of equipment.
- n. Turn off electrical equipment when not in use.
- o. If an extension cord is damaged or the grounding pin is removed, do not use the cord. Do not try to rewire a new plug. Remove the cord from service and replace it with a new cord.

## 2. Maintenance

Supervisors will ensure that equipment is maintained according to manufacturers' specifications. Only properly trained individuals shall perform maintenance work.

The following equipment is subject to the maintenance, inspection, and testing procedures:

- a. equipment installed to detect fuel leaks, control heating, and control pressurized systems;
- b. portable fire extinguishers, automatic sprinkler systems, and fixed extinguishing systems;
- c. detection systems for smoke, heat, or flame;
- d. fire alarm systems; and
- e. emergency backup systems and the equipment they support.

## Types of Hazards

The following sections address the major workplace fire hazards at the facilities and the procedures for controlling the hazards.

### 1. Electrical Fire Hazards

Electrical system failures and the misuse of electrical equipment are the leading causes of workplace fires. Fires can result from loose ground connections, wiring with frayed insulation, or overloaded fuses, circuits, motors, or outlets.

To prevent electrical fires, employees shall:

- a. Make sure that worn wires are replaced.
- b. Use only appropriately rated fuses.
- c. Never use extension cords as substitutes for wiring improvements.
- d. Use only approved extension cords (i.e. those with the Underwriters Laboratory (UL) or Factory Mutual (FM) label).
- e. Check the wiring in hazardous locations where the risk of fire is especially high.
- f. Check electrical equipment to ensure that it is either properly grounded or double insulated.
- g. Ensure adequate spacing while performing maintenance.

### 2. Portable Heaters

All portable heaters shall be approved by the fire chief or his/her designee. Portable electric heaters shall have tip-over protection that automatically shuts off the unit when it is tipped over. There shall be adequate clearance between the heater and combustible furnishings or other materials at all times.



### 3. Office Fire Hazards

Fire risks are not limited to the industrial facilities. Fires in offices have become more likely because of the increased use of electrical equipment, such as computers and fax machines.

To prevent office fires, employees shall:

- a. Avoid overloading circuits with office equipment.
- b. Turn off nonessential electrical equipment at the end of each workday.
- c. Keep storage areas clear of rubbish.
- d. Ensure that extension cords are not placed under carpets.
- e. Ensure that trash and paper set aside for recycling is not allowed to accumulate.
- f. If possible, replace temporary extension cords with a permanent wiring solution.

### 4. Cutting, Welding, and Open Flame Work

Supervisors will ensure the following:

- a. Cutting and welding are done by authorized personnel in designated cutting and welding areas whenever possible.
- b. Adequate ventilation is provided.
- c. Torches, regulators, pressure-reducing valves, and manifolds are UL listed or FM approved.
- d. Oxygen-fuel gas systems are equipped with listed and/or approved backflow valves and pressure-relief devices.
- e. Cutters, welders, and helpers are wearing eye protection and protective clothing as appropriate.
- f. Cutting or welding is prohibited in areas where explosive atmospheres of gases, vapors, or dust could develop from residues or accumulations in confined spaces.
- g. Cutting or welding is prohibited on metal walls, ceilings, or roofs built of combustible sandwich-type panel construction or having combustible covering.
- h. Confined spaces such as tanks are tested to ensure that the atmosphere is not over 10 percent of the lower flammable limit before cutting or welding in or on the tank.
- i. Small tanks, piping, or containers that cannot be entered are cleaned, purged, and tested before cutting or welding on them begins.

## 5. Flammable and Combustible Materials

Supervisors shall regularly evaluate the presence of combustible materials at the facilities (see Appendix D).

Certain types of substances can ignite at relatively low temperatures or pose a risk of catastrophic explosion if ignited. Such substances require special care and handling.

### a. Class A combustibles.

These include common combustible materials (wood, paper, cloth, rubber, and plastics) that can act as fuel and are found in non-specialized areas such as offices.

To handle Class A combustibles safely:

1. Dispose of waste daily.
2. Keep work areas clean and free of fuel paths that could allow a fire to spread.
3. Keep combustibles away from accidental ignition sources, such as hot plates, soldering irons, or other heat- or spark-producing devices.
4. Do not order excessive amounts of combustibles.
5. Make frequent inspections to anticipate fires before they start.

Water, multi-purpose dry chemical (ABC), and halon 1211 are approved fire extinguishing agents for Class A combustibles.

### b. Class B combustibles.

These include flammable and combustible liquids (oils, greases, tars, oil-based paints, and lacquers), flammable gases, and flammable aerosols.

To handle Class B combustibles safely:

1. Use only approved pumps, taking suction from the top, to dispense liquids from tanks, drums, barrels, or similar containers (or use approved self-closing valves or faucets).
2. Do not dispense Class B flammable liquids into containers unless the nozzle and container are electrically interconnected by contact or by a bonding wire. Either the tank or container must be grounded.
3. Store, handle, and use Class B combustibles only in approved locations where vapors are prevented from reaching ignition sources such as heating or electric equipment, open flames, or mechanical or electric sparks.
4. Do not use a flammable liquid as a cleaning agent inside a building (the only exception is in a closed machine approved for cleaning with flammable liquids).
5. Do not use, handle, or store Class B combustibles near exits, stairs, or any other areas normally used as exits.
6. Do not weld, cut, grind, or use unsafe electrical appliances or equipment near Class B combustibles.
7. Do not generate heat nor allow an open flame or smoke near Class B combustibles.

8. Know the location of and how to use the nearest portable fire extinguisher rated for Class B fire.
9. Soiled rags containing Class B combustibles should be placed in metal storage bins after use.

Water should not be used to extinguish Class B fires caused by flammable liquids. Water can cause the burning liquid to spread, making the fire worse. To extinguish a fire caused by flammable liquids, exclude the air around the burning liquid. The following fire-extinguishing agents are approved for Class B combustibles: carbon dioxide, multi-purpose dry chemical (ABC), halon 1301, and halon 1211. **(NOTE:** Halon has been determined to be an ozone-depleting substance and is no longer being manufactured. Existing systems using halon can be kept in place.)

## 6. Smoking

Smoking is prohibited in all buildings. Certain outdoor areas may be designated as no-smoking areas. The areas in which smoking is prohibited outdoors are identified by NO SMOKING signs. Smoking is prohibited in all vehicles and equipment.

## Training

The Safety Coordinator shall present basic fire prevention training to all employees upon employment, and shall maintain documentation of the training, which includes:

1. This Fire Prevention Plan, including how it can be accessed;
2. Good housekeeping practices;
3. Proper response and notification in the event of a fire;
4. Instruction on the use of portable fire extinguishers (as determined by policy in the Emergency Action Plan); and
5. Recognition of potential fire hazards.

Supervisors shall train employees about the fire hazards associated with the specific materials and processes to which they are exposed and will maintain documentation of the training. Employees will receive this training:

1. At their initial assignment;
2. Annually; and
3. When changes in work processes necessitate additional training.

## Program Review

The Safety Coordinator, with assistance from the Fire Chief, shall review this Fire Prevention Plan at least annually for necessary changes.

# Emergency Action Plan

## Overview

This Emergency Action and Fire Prevention Plans are in place to cover those designated actions employers and employees must take to ensure employee safety during a medical, fire, and other emergencies and steps to take for the prevention of fires within the facility.

This EAP is a general template for use throughout the City of Deadwood. Each department is required to implement EAPs at each of its facilities. Department Heads and the Safety Coordinator are responsible for the implementation, training, and maintenance of these plans.

These plans shall be maintained at the facility and be made available for review by employees.

## Elements

1. The emergency escape route will be conspicuously posted and emergency exits clearly marked.
  - a. In the event of an emergency requiring the evacuation of the premises, evacuation instructions will be given via voice commands.
2. Procedures to account for all employees after emergency evacuation has been completed:
  - a. In the event of an evacuation, all employees will assemble as soon as practical in the area designated in the EAP.
  - b. Once all employees have congregated at the meeting place, there will be an accounting of employees, to ensure everyone has been evacuated.
3. Preferred means of reporting fires and other emergencies:
  - a. 9-1-1 will be called to notify the Fire Department.
  - b. Any additional emergency numbers will be posted by each telephone.
  - c. The facility supervisor shall advise each employee of his or her responsibility under the plan:
    1. Initially when the plan is developed;
    2. Whenever the employee's responsibilities or designated actions under the plan change; and
    3. Whenever the plan is changed.
  4. The employer shall review with each employee upon initial assignment those parts of the plan which the employee must know to protect him or herself in the event of an emergency, including alarm systems.

## Fire Emergencies

1. All employees shall be familiar with fire evacuation procedures.
2. A floor plan identifying escape routes and locations of fire extinguishers will be placed conspicuously.
3. Department leadership will discuss fire evacuation procedures as frequently as necessary, but at least once per quarter.

### If you discover a fire:

1. Stay calm, and above all, do not jeopardize your safety.
2. Activate the nearest fire alarm and alert employees in the immediate area about the fire when it is safe to do so.
3. Call the fire department at 9-1-1 if applicable.
4. Remove anyone in immediate danger.
5. Confine the fire by closing windows and doors, as much as possible as you exit.
6. No employee should attempt to fight a fire that cannot be reasonably fought with a portable fire extinguisher. Employees must exit the facility as soon as possible.

## Evacuation due to Fire

1. If the fire cannot be immediately contained, evacuate the facility. Consider the possibility of toxic fumes or explosions from burning materials and especially from the compressed gas.
2. Stay low when moving through the smoke.
3. When passing through an exit, move quickly away from the exit to avoid creating a bottleneck that slows the escape of others.
4. If you are trapped inside a room, keep the doors closed and seal any cracks with wet towels, if possible.
  - a. Open a window for air and call for help. Do not break the glass unless absolutely necessary (outside smoke could be drawn into the room).
  - b. Do not panic or jump.
  - c. Close as many doors between you and the fire as possible.
5. Do not reenter the building after you have exited, but proceed directly to the designated assembly area identified in the EAP.
6. Follow the directions of the supervisors present and the emergency personnel at the scene.
7. If someone is missing, do not attempt to reenter the building. Notify the firefighters or emergency personnel at the scene, and describe where the person was last seen.

## Weather

Severe weather occurs more frequently in the spring and early summer months, although they can occur at any time. Supervisors should pay close attention to weather reports during tornado “season” and be prepared to implement appropriate emergency procedures when notified by local authorities or the sounding of tornado sirens.

**If you are inside:**

1. Proceed to a central hallway of the building, if possible.
2. If there is no time, crouch under a desk or table, away from windows or glass dividers.
3. Stay away from tall objects, such as file cabinets.

**If you are outside:**

1. Seek shelter if available in a nearby building, if no building is available, seek cover in low-lying depressions away from buildings, trees, telephones, and electric lines.

\*Contact the Safety Coordinator for examples of emergency action plans to use as examples for each department.\*

# Ergonomics

## Overview

The City of Deadwood recognizes the potential of ergonomic stressors to adversely impact worker health and safety and has established controls to reduce the duration, frequency, and severity of exposure to ergonomic stressors.

The objectives of this Ergonomics Program are to improve the work environment surrounding each employee using a multi-disciplinary approach to enhance human performance and to reduce the occurrence of ergonomic-related disorders.

## Definitions

**Cumulative Trauma Disorder (CTD):** Health disorders that may arise from repeated biomechanical stress due to ergonomic stressors.

**Ergonomic Risk Factors:** Conditions of a job, process, or operation that contribute to the risk of developing CTDs. Examples include repetitiveness of activity, the force required, and awkwardness of posture. Risk factors are regarded as synergistic elements of ergonomic hazards, which must be considered in light of their combined effect in inducing CTDs. Jobs, operations, or workstations that have multiple risk factors will have a higher probability of causing CTDs, depending on the relative degree of severity of each factor.

**Ergonomic Stressors (or Ergonomic Hazards):** Workplace conditions that pose biomechanical stress to the worker. Such hazardous work conditions include but are not limited to faulty workstation layout, improper work methods, improper tools, excessive tool vibration, and job design problems that include aspects of workflow, line speed, posture and force requirements, work/rest regimens, and repetition rate.

**Ergonomic Worksite Analysis:** A detailed assessment of a particular job task to identify potential ergonomic stressors. This assessment helps to verify lower risk factors at light duty or restricted activity work positions and to determine if risk factors for a work position have been reduced or eliminated to the extent possible. The assessment includes an analysis of the workstation layout and the ergonomic risk factors of the job.

**Ergonomic Worksite Survey:** A methodology that identifies job tasks as having a high or low level of ergonomic risk. Job tasks identified as having a high ergonomic risk require an ergonomic worksite analysis. The survey includes a review of injury and illness records to identify patterns and trends that may indicate the development of CTDs.

**Human Engineering Design Criteria:** The summation of available knowledge that defines the nature and limits of human capabilities as they relate to the checkout, operation, maintenance or control of systems or equipment; and which may be applied during

engineering design to achieve optimum compatibility between equipment and human performance.

## Responsibilities and Authorities

**Supervisors** are responsible for:

1. Ensuring that employees reporting ergonomic-related symptoms are referred to Human Resources and subsequently a medical treatment facility for surveillance or treatment.
2. Assisting in performing worksite surveys.
3. Ensuring implementation of corrective action for control of ergonomic stressors as recommended by the Safety Coordinator.
4. Addressing proper work-related techniques in an on-the-job training program.

**Employees** are responsible for:

1. Using proper work techniques in performing their duties.
2. Reporting all injuries, symptoms, and illnesses that may be related to ergonomics to their supervisors and to Human Resources.
3. Checking with their supervisors regarding ergonomic improvements in their work area.

## Hazard Prevention and Control

### Engineering Controls

1. Engineering controls, where feasible, are the preferred method of controlling ergonomic stressors.
2. Workstation design shall be flexible enough to accommodate the person who will be performing a given job.
3. Workspaces shall be large enough to allow for the full range of required movements.

### Work Practice Controls

1. The ergonomic worksite analysis shall emphasize evaluation of work practice controls, including:
  - a. Proper techniques and methods that improve posture and reduce stress and strain on extremities;
  - b. Proper care, use, and maintenance of tools;
  - c. Correct lifting techniques; and
  - d. Correct use of ergonomically designed workstations and fixtures.
2. Supervisors may consider the modification of work practice controls to accommodate changes in the dynamics of the workplace, such as:
3. Administration controls may be used to reduce the duration, frequency, and severity of exposures to ergonomic stressors.
4. Each department shall have an effective housekeeping program to minimize the potential for slips, trips, and falls.



## **Training and Education**

The Safety Coordinator shall develop and administer a training program for ergonomics.

The training will cover:

1. The principles of ergonomics and their applications.
2. The proper use of equipment, tools, and machine controls.
3. The use of good work practices, including proper lifting techniques.
4. Work tasks that may lead to pain or injury.
5. Early symptoms of musculoskeletal disorders.
6. Understand the importance of reporting and addressing early indications of MSDs before serious injuries develop.

## **Employee Involvement**

1. Employees are encouraged to discuss any ergonomic health concerns with their supervisor or the Safety Coordinator.

# Personal Protective Equipment

## Overview

This program sets forth the requirements and guidelines for job hazard assessment and the selection of the proper PPE. It requires supervisors to assess the workplace and determine the appropriate PPE for the job to be performed. Once the assessment is complete, employees shall be trained in the selection and use of PPE.

## Hazard Assessment

1. Assess the workplace to determine if hazards are present. Hazards of the job may include, but not be limited to:
  - a. Sources of motion
  - b. Extreme temperatures
  - c. Chemicals
  - d. Biohazards
  - e. Harmful dust
  - f. Light radiation
  - g. Falling objects
  - h. Sharp objects
  - i. Rolling or pinching objects
  - j. Noise
  - k. Electrical hazards
2. Additionally, note the workplace layout and placement of co-workers.
3. Evaluate the degree of risk of the specific hazard, including the seriousness of the injury that could occur.
  - a. Job activities with greater risk should be further evaluated for secondary risks and to ensure the most serious hazards are minimized.
4. A job hazard analysis (JHA) form can be obtained from the Safety Coordinator and is part of the safety program. Supervisors should complete JHAs on all positions and routine activities.

## Training

1. All employees who use personal protective equipment, as well as their supervisors, shall be trained in the use of PPE. This training shall include:
  - a. When PPE is necessary
  - b. What types of PPE are necessary
  - c. Limitation of PPE
  - d. Proper care, maintenance, useful life, and disposal of PPE
2. Employees shall be retrained when:
  - a. There is evidence that the employee is not using the PPE appropriately
  - b. When the required PPE has changed due to operational changes
  - c. When the required PPE has changed

**Eye/Face**

1. Employees shall wear eye/face protection when they are exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, biologic hazards, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.
2. Employees will use only eye protection built under ANSI specifications Z87.1-2010 or higher.
3. Refer to the Eye/Face protection program.

**Hearing**

1. Refer to the Noise Control and Hearing Conservation Program for requirements on the use of hearing protection.

**Head**

1. Employees shall wear head protection when they are exposed to areas where there is a potential for injury from falling objects to the head or when they are exposed to electrical conductors that could contact the head.
2. Protective helmets must comply with ANSI Z89.1-1986 or other equipment demonstrated to be equally effective.
3. Refer to the Head Protection program for further guidance.

**Foot**

1. Employees shall wear protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, objects piercing the sole or where the employee's feet are exposed to electrical hazards. Each department will have its requirements for foot protection and its use.
2. Protective footwear must comply with ANSI Z41-1991.
3. Refer to Foot Protection program for further guidance.

**Hand**

1. Employees shall wear appropriate hand protection when their hands are exposed to hazards such as those from chemical absorption, severe cuts or lacerations, severe abrasions, chemical burns, thermal burns, and harmful temperature extremes.
2. The selection of hand protection will be based on the tasks performed, the conditions present, duration of use, and other potential hazards that may exist.
3. When employees are exposed to chemical hazards, the appropriate SDS will be used as the primary means to determine correct hand protection.
4. Refer to the Hand Protection program for further guidance.

# Eye and Face Protection Program

## Introduction

Sight is one of our most valuable senses. Partial or complete loss of sight would present a challenge to all of us. Hazards to the eyes can take a variety of forms, such as flying particles, biohazards, electromagnetic radiation, and corrosive liquids or vapors.

The primary focus of this document is the proper selection, use, and care of eye and face protection. The intent of this publication is educational and preventive. A copy of this written plan shall be made available upon request to any employee, volunteer, or visitor.

## Scope

The content of this written program applies to employees, volunteers, and visitors. Eye and face protection shall be provided to employees, volunteers, and visitors.

This publication covers common eye hazards likely to be encountered but excludes ionizing radiation (e.g. X-ray, gamma rays, and high-energy particle radiation).

## Responsibilities

### Department Heads

1. Assure that employees using eye protection receive the necessary training.
2. Assure that all eye and face protection equipment necessary is provided and maintained in a good state of repair.
3. Identify the activities and locations requiring eye and face protection.

### Safety Coordinator

1. Develop a written control plan and perform a periodic review to determine if revisions are necessary.
2. Monitor compliance of the respective departments' compliance.
3. Provide guidance and technical assistance to departments regarding eye and face protection equipment and use.
4. Provide a means by which employees can direct suggestions, complaints, and concerns regarding the Eye and Face Protection Program.
5. Maintain a database of all reported eye injuries involving employees and visitors. Investigate eye and face injuries when necessary.

## Employees

1. Participate willingly in all training programs offered and learn as much as possible about the Eye and Face Protection Program.
2. Abide by all rules and apply the safety and health precautions specified to the fullest extent possible.
3. Report any problems that are observed which could compromise health and safety to the immediate supervisor.
4. Maintain personal eye and/or face protection equipment in a safe and sanitary condition.
5. Ensure that no other individuals are exposed to eye or face hazards based on the operations being conducted.

## Equipment Selection

Eye and face protection fall under a broad category known as personal protective equipment, or as it is sometimes called safety equipment. Employees may choose to provide their eye and face protective equipment if it meets or exceeds the requirements necessary for the activity. Regular prescription glasses are manufactured to safety standards meeting the requirements of the Food and Drug Administration. Although the lenses in prescription glasses are referred to as "safety glass," these lenses do not meet the requirements for workplace safety. Engineering and administrative controls should always be considered first. Examples of engineering controls include:

1. Substitution of substances or processes which eliminate or decrease the possibility of an eye injury.
2. The enclosure of a process or equipment that generates a hazard of the eyes or face.
3. Installation of shields.

Administrative controls generally involve work procedures, warning signs, and training.

The first step in selecting eye and face protection is a recognition of the hazard. If you are unsure if a substance could be injurious to the eyes, consult the product's label or its safety data sheet (SDS). An SDS should be available for each chemical used in the workplace. The Eye and Face Protection Selection Chart from 29 CFR 1910.133 should be used to select appropriate eye protection during welding and cutting operations.

Eye and Face hazards fall into four main categories:

1. Flying particles and materials
2. Electromagnetic radiation
3. Chemicals that can be accidentally splashed in the eye(s) or chemical vapors that can cause eye injury.
4. Biological hazard

If you have a specific question regarding eye and face protection that is not adequately answered by the written program, consult your immediate supervisor.

### **Approved Equipment**

Equipment used to protect the eyes and face shall be approved by the American National Standards Institute (ANSI). New eye protection shall comply with Z 87.1 - 2010 "American National Standards Practice for Occupation and Educational Eye and Face Protection," or later edition. Damaged eye and face protection equipment shall not be used and shall be discarded.

### **Posting of Hazards**

Signs shall be posted in areas requiring eye and/or face protection. The signs may be posted on entry doors to areas where eye hazards routinely exist. Examples of areas requiring eye protection include shops (wood, machine), construction sites, and chemical storage sites.

### **Face shields**

Face shields function as protection for the eyes and face and can be used to supplement eye protection. A face shield should never be used alone for eye protection. As a general rule, face shields should be worn in combination with other eye protection. There are three basic types, which include provision for crown (head) protection, crown and chin protection, and neither crown nor chin protection.

### **Goggles**

There are three basic types of goggles. The first type is designed to withstand impact only and is generally vented through the sides of the goggles to prevent fogging. The second type, which has indirect vents, is designed to prevent splashes or particles from reaching the eyes and impact. The vents are capped and limit airflow. Fogging of the goggles could be a problem with this type of eye protection. The third type of goggles is non-vented and is designed only to exclude vapors and fumes. An anti-fogging treatment is required with this type of eye protection.

### **Eye Wash Facilities**

Eyewash facilities shall be provided near locations where corrosive chemicals are routinely used, mixed, handled, or stored. Where the use or handling of corrosive chemical is transient or where approved water supply is not available, consideration should be given to portable eyewash facilities.

### **Visitors**

Visitors may be exposed to eye hazards. Each department head shall ensure that visitors are provided with appropriate eye protection when a hazard exists. Consideration should be given to providing visitors safety glasses that can fit over prescription glasses.

**Training**

The City of Deadwood requires employees to be trained in proper eye protection. The training shall cover the following information:

1. When eye protection is necessary;
2. What type of eye protection is required;
3. The possible injuries that can occur as the result of failure to wear the provided eye protection;
4. How to properly don, doff, adjust, and wear eye protection;
5. The limitation of the eye protection; and,
6. The proper care, maintenance, useful life, and disposal of eye protection.

Training should be provided for each new employee. Refresher training should be provided when:

1. The employee demonstrates a lack of knowledge;
2. Different eye protection is provided to the employee;
3. Periodically as deemed necessary by the supervision.

**Care, Maintenance, and Storage of Eye Protection**

Eye and face protection must be properly maintained to be effective. Employees must report damaged eye protection and face shields to their immediate supervisor. Eyewear with a lens that has extensive scratches should be replaced. Broken or cracked welding goggles can permit ultraviolet light to penetrate and should be discarded. Eye protection should be inspected periodically for signs of wear and tear and should be stored in a location where it is not subject to physical damage, harmful chemicals, dust, excessive heat, or theft. Eye protection should be kept near the fixed equipment requiring eye protection. Fogging may occur with any type of eye protection. Anti-fogging agents are available and should be used when fogging occurs. It may be necessary to apply the anti-fogging compound every few days under heavy fogging conditions. Some eye protection comes from the manufacturer with an anti-fogging coating.

# Hearing Conservation Program

The hearing conservation program (HCP) is in place to protect employee hearing and effectively manage or eliminate hazardous noise exposures. In those areas where engineering controls cannot reduce noise below harmful levels or until engineering controls can be implemented, employees will take part in an HCP.

Employees are required to fully participate in the program as a condition of employment. Employees must wear the provided ear protection devices when working in posted noise areas.

Each employee exposed to sound levels over 85 dBA, in the normal responsibilities of their position, will be:

1. Provided with a choice of suitable hearing protectors, fitted, and encouraged to use them.
2. Required to wear ear protection when working in areas where noise exposure exceeds 85 dBA in an eight-hour time-weighted average (8hr TWA).
3. Provided annual training and information.
4. Notified of noise exposure monitoring results when their exposure is 85 dBA or greater (8hr TWA).
5. Required to wear hearing protection in environments with noise greater than 85 dBA, regardless of the duration of exposure.

## Responsibilities

1. Safety Coordinator will:
  - a. Maintain oversight of the HCP.
  - b. Schedule and conduct hearing conservation training.
  - c. Assist in identifying and labeling high-risk areas for noise.
2. Supervisors will:
  - a. Monitor and ensure the wearing of hearing protection in all posted areas.
  - b. Wear and maintain hearing protection in all posted areas.
  - c. Check the fit and condition of hearing protection and ensure replacement when necessary.
  - d. Ensure workers attend safety meetings on hearing protection.
  - e. Notify the Safety Coordinator if any additional high noise areas are suspected.
  - f. Contact the Safety Coordinator if new procedures are implemented which may affect noise levels.



3. Employees will:
  - a. Wear and maintain hearing protection in all posted areas.
  - b. Attend safety meetings on hearing protection.
  - c. Bring any hearing protection or noise-related problems to the attention of their supervisor.
  - d. Report to their supervisor any changing conditions which may impact personnel noise exposures.

## Program Requirements

### 1. Noise Monitoring

- a. Noise levels in some areas will exceed 85 dBA. The noise exposure levels for areas and sources that have been measured are available through the Safety Coordinator.
- b. Additional noise monitoring will be conducted whenever employee exposures are expected to change (equipment changes, plant modifications, engineering control installations, etc.). For employees having fixed working locations near steady and continuously operating noise sources, a sound level measurement made for a representative period at the employee's position will indicate his or her exposure level. The measurement interval should be of sufficient duration to encompass a reasonable number of operating cycles for the task or machinery being considered.
- c. Affected employees or employee representatives will be notified of planned monitoring by the Safety Coordinator and permitted to observe. Employees will also be notified of monitoring results.

### 2. Hearing Protection

- a. Until engineering and/or administrative controls reduce the amount of noise exposure to or below the allowed limits, appropriate personal hearing protective devices are made available and issued to employees working in jobs or areas where exposure may exceed a TWA of 85 dBA. It is recognized that the use of these devices is considered a temporary solution to the problem of overexposure until feasible controls are provided. The continuing failure of an employee to properly wear the protection provided could result in the termination of employment.
- b. All visitors, management, or employees who may enter or pass through a hearing protection required area will also be expected to wear hearing protection.
- c. A variety of hearing protection options, including earplugs and muffs will be made available so that employees can choose the type which is most comfortable for them.
- d. The procedure in **Appendix E** will be used to ensure that selected hearing protection devices reduce noise exposures to an acceptable level.

### 3. Noise Signs

- a. All work areas where noise exposures may exceed 85 dBA will be posted with noise warning signs at entrances to these areas. All employees will wear ear protection when working in posted areas. All other employees or visitors passing through these areas will also be required to wear hearing protection.
- b. Tools that generate sound levels above 85 dBA will be labeled. Hearing protection must be used by the operator when this equipment is used.

### 4. Employee Training

Participation in an annual training program is required for all employees. The training will include information on:

- a. Purpose and use of hearing protectors and the advantages and disadvantages of various types.
- b. Instructions in selection, fitting, use, and care of hearing protectors.
- c. Areas where hearing protection is required.
- d. Records of training will be maintained.

### 5. Engineering & Administrative Controls

- a. We recognize the desirability of controlling the existing noise levels by engineering and/or administrative controls. Therefore, the feasibility of such controls is carefully considered, including a possible redesign of existing machinery, the building of partial or total enclosures, and other engineering noise control procedures for reducing the existing noise levels.
- b. Due to the complexity of some machinery used, and because of economic limitations, some noise levels cannot be reduced to below acceptable limits. Within the limitation of work schedules and employee skills, administrative controls have also been considered. On a continuing basis, engineering and administrative controls will be considered and implemented where feasible.
- c. We also recognize the desirability of considering noise levels before purchasing new or rebuilt equipment. It is our policy to evaluate noise levels before equipment purchases.

# Head Protection Policy

Safety headgear (i.e. hard hats) shall be worn by employees in any area in which there is a potential hazard to the head from falling, flying, or thrown objects, or from other harmful contacts (i.e. electrical). Some examples of this hazard would include, but not be limited to:

1. Any operation where hard hats are mandatory (i.e. road construction, gravel pits, etc.)
2. Confined space entry activities;
3. Working below a scaffolding, aerial lift, or ladder.
4. When working below other workers;
5. When electrical contact with the head is a possibility; and
6. Any other operation where an employee could be struck by a falling overhead object.

Safety headgear (hard hats) shall meet the requirements of:

1. CSA Standard Z94.1-M1977
2. CAN/CSA Standard Z94.1-92
3. ANSI Z89.1-1969
4. ANSI Z89.2-1971
5. ANSI Z89.1-1981
6. ANSI Z89.1-1986
7. Federal OSHA regulations 29 CFR 1910.135, Head Protection

Where persons are exposed to the potential of an electrical hazard, the hard hats shall be of a non-conductive type which is rated as "Class E." Painting of hard hats and/or drilling of hard hat shells to affix attachments is prohibited.

Where there is a possibility of the hard hat being dislodged due to high winds or because of an awkward work position (i.e. when a worker is bent over), hard hats are to be fitted with chin straps or other means of ensuring that the safety headgear remains attached to the wearer.

Persons engaged in operating or riding on snow machines, all-terrain vehicles, or motorcycles in the following scenarios shall wear safety helmets, approved by a recognized agency (DOT, Snell, etc.)

1. Operating on any street.
2. Exceeding 15 mph.
3. Operating in an area where a high risk of rollover is present.

Where such machines are used to transport workers to a work point where any work away from the machines will expose the workers to a hazard of head injury, then hard hats shall be

carried and worn at the worksite. The use of hard hats for protection while operating or riding a snow machine, all-terrain vehicle, or motorcycle is prohibited.

Persons wearing safety headgear are to inspect the shell and suspension for any visible signs of damage before use. Where damage or defects are detected, the safety headgear shall be discarded and replaced with a new unit.

Safety headgear will deteriorate over time from exposure to sunlight or other chemicals. The normal service life of a hard hat shell is considered to be a maximum of 5 years from the date of manufacture (which can be found permanently marked on the inside surface of the hard hat shell). The service life of the suspension is considered to be 1 year of regular use. Where use is intermittent, the suspension may last longer. Replacement suspension harnesses shall be from the same manufacturer and for the same model of the hard hat. Mixing different manufacture suspension types and hard hat shells is prohibited. Hard hats shall be replaced after being struck or after any event that may have reduced the ability of the hard hat to protect the user.

# Foot Protection Policy

## Purpose

The purpose of the foot protection policy is to select and have each affected employee use, appropriate foot protection at the City of Deadwood, to minimize the risk of foot injuries. It is the responsibility of immediate supervisors to perform a job hazard analysis to determine the need for specific foot protection and to ensure that appropriate foot protection is being worn.

## Responsibility

**Employees** are responsible for their safe use of foot protection. They shall wear the approved foot protection as part of their daily uniform. City of Deadwood employees are eligible for a \$400/year reimbursement for the purchase of safety toed boots and safety gear. Contact your supervisor or HR for details.

**Management/Supervisors** are responsible for implementing an appropriate foot protection program for individuals, work, and areas under their direction. They shall:

1. Evaluate all their work areas and tasks and assess the risk for foot injuries, plus slips and falls and electrical shock where footwear may have an impact.
2. Determine the need for specific foot protection.
3. Ensure appropriate, approved foot protection is being worn
4. Provide adequate storage and care capability.
5. Ensure foot protection requirements are being followed.

## Safety Coordinator

1. Provide professional consultation and guidance to management for all foot protection program elements.
2. Audit the foot protection program and assist management in developing effective strategies for indicated improvement.
3. Develop and maintain an effective foot protection program to include policy.

## Footwear Requirements

All protective footwear shall meet the requirements of ANSI Standard Z41-1991: Protective footwear is intended to protect the toes against external forces through the use of a protective toe box. Compression and Impact-resistant protective footwear shall be rated no less than C/75 and I/75, respectively.

Electrical Hazard Safety footwear shall protect open circuits of 600 volts or less under dry conditions. No metal parts shall be incorporated in the sole or heel of the shoe.

Sole puncture-resistant footwear shall include a protective device that will protect puncture wounds of the sole for the life of the footwear.

No affected employee may work without safety shoes where there is a danger of the above-mentioned hazards. The safety toe portion of the footwear may be composed of steel or composite material. If anyone needs information about what type of foot protection is appropriate, please contact the Safety Coordinator.

# Hand Protection Policy

## Overview

Hand protection shall be worn when hands are exposed to hazards such as those from skin absorption of harmful substances, severe cuts or lacerations, severe abrasions, punctures, chemical burns, thermal burns, and harmful temperature extremes. The basis for this policy is to protect against all types of hand injuries.

The type of hand protection used shall be based on the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards or potential hazards identified.

## Responsibility

Each department is charged with the responsibility to perform the appropriate job hazard analysis to identify all hand hazards and to ensure employees' hands are protected while performing duties in the workplace. Questions employees might have relative to hand protection should be directed to the Safety Coordinator.

## Selection of Gloves for Protection Against Chemical Hazards

1. The toxic properties of the chemical(s) must be determined; in particular, the ability of the chemical to cause local effects on the skin and/or to pass through the skin and cause systemic effects;
2. Generally, any "chemical resistant" glove can be used for dry powders;
3. For mixtures and formulated products (unless specific test data are available), a glove shall be selected based on the chemical component with the shortest breakthrough time, since solvents can carry active ingredients through polymeric (a chemical compound or mixture of compounds formed by polymerization and consisting essentially of repeating structural units) materials; and
4. Employees shall be able to remove the gloves in such a manner as to prevent skin contamination.
5. Employees should report to their immediate supervisor all hand injuries so appropriate post-accident evaluations can be made to help ensure repeat accidents don't reoccur.

*Note: Employees should be reminded that not all gloves protect against cut injuries. Make sure you use the correct gloves for this hazard, which may include Kevlar or metal mesh.*

# Hazard Communication Plan

## Overview

The purpose of the Hazard Communication Standard is to ensure that the hazards of all produced or incorporated chemicals are evaluated and the information concerning these hazards is transmitted to employers and employees. The plan also uses the Globally Harmonized System (GHS). This is an international approach to hazard communication, providing agreed criteria for the classification of chemical hazards, and a standardized approach to label elements and safety data sheets. The GHS was negotiated in a multi-year process by hazard communication experts from many different countries, international organizations, and stakeholder groups. It is based on major existing systems around the world, including OSHA's Hazard Communication Standard and the chemical classification and labeling systems of other US agencies.

The standard mandates the evaluation of hazardous chemicals present in a workplace and requires training of employees regarding the hazardous chemicals and related prevention and protective measures for routine and non-routine tasks.

## The Hazard Communication Plan

1. The Hazard Communication Plan (HCP) consists of four major components:
  - a. Identification and inventory of all hazardous chemicals and listing on a Hazardous Chemical List (HCL).
  - b. Acquisition of Safety Data Sheets (SDS) for each hazardous chemical listed on the HCL.
  - c. Labeling of all hazardous chemicals with chemical name, hazards, and warnings and the manufacturer or importer's name and address, with reference to the appropriate Safety Data Sheet.
  - d. Training of all employees about the hazardous chemicals in the workplace and the Hazard Communication Plan.
2. The Safety Coordinator is responsible for the Hazard Communication Plan. Each department shall institute a HAZCOM program that meets the standards of this plan.
3. Copies of the Hazard Communication Standard and the Hazard Communication Plan will be maintained and available upon request.

## Hazardous Chemicals List

1. Each department is responsible for identifying and inventorying all hazardous chemicals within their department. A HAZCOM officer should be assigned by each department to maintain a proper inventory and to keep SDS sheets up to date.
2. A current master list will be maintained at all times. New chemicals will be added as



they are received, and chemicals no longer inventoried will be removed from the list as they are discarded. A formal inventory and update of the list will be done annually.

3. Each hazardous chemical must be cross-referenced to an appropriate Safety Data Sheet.
4. The master HCL will be maintained by the Safety Coordinator. Partial lists may be maintained in the various departments where hazardous chemicals are used.

## Safety Data Sheets (SDS)

1. The Hazard Communication Standard requires that SDSs be available to all employees for each hazardous chemical identified and used. If the employer receives a chemical container labeled as a hazard, an SDS is required.
  - a. Each department will be responsible for acquiring and maintaining updated versions of all SDSs that are pertinent to its operation.
  - b. The SDS will be written in English and will consist of all of the following information:

The format of the 16-section SDS should include the following sections:

- Section 1. Identification
- Section 2. Hazard(s) identification
- Section 3. Composition/information on ingredients
- Section 4. First-Aid measures
- Section 5. Fire-fighting measures
- Section 6. Accidental release measures
- Section 7. Handling and storage
- Section 8. Exposure controls/personal protection
- Section 9. Physical and chemical properties
- Section 10. Stability and reactivity
- Section 11. Toxicological information
- Section 12. Ecological information
- Section 13. Disposal considerations
- Section 14. Transport information
- Section 15. Regulatory information
- Section 16. Other information, including date of preparation or last revision

The SDS must also contain Sections 12-15, to be consistent with the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

- c. All new procurements of hazardous chemicals should be evaluated and, whenever possible, the least hazardous substance should be purchased.
- d. Training of all employees regarding any new or updated SDS will be documented.
- e. Purchase orders for hazardous chemicals should include a request for a current SDS.
- f. Hazardous chemicals should not be incorporated into any work process until an

SDS has been received and reviewed by employees exposed to the chemical.

2. Accessibility of Safety Data Sheets:










- a. A current SDS library will be maintained by each department for all hazardous chemicals identified and listed on the HCL. A master SDS library will be maintained by the Safety Coordinator. Each department is responsible to get new SDS sheets to the Safety Coordinator.
- b. The SDSs will be readily available to all employees during each work shift.
- c. If a new SDS contains changes or new information, the old SDS will be replaced with the new one in both the master file and the worksite file. Affected personnel will review updated or modified SDSs.

## Labels and Other Forms of Warning

1. Containers of hazardous chemicals will be properly labeled with the following information:

- a. Identity of the hazardous chemical;
- b. Appropriate hazards and warnings (including target organ effect); and
- c. Name and address of the manufacturer.
- d. **Pictogram:** a symbol plus other graphic elements, such as a border, background pattern, or color that is intended to convey specific information about the hazards of a chemical. Each pictogram consists of a different symbol on a white background within a **red square frame** set on a point (i.e. a red diamond). There are nine pictograms under the GHS. However, only eight pictograms are required under the HCS.
- e. **Signal words:** a single word used to indicate the relative level of severity of hazard and alert the reader to a potential hazard on the label. The signal words used are "danger" and "warning." "Danger" is used for the more severe hazards, while "warning" is used for less severe hazards.
- f. **Hazard Statement:** a statement assigned to a hazard class and category that describes the nature of the hazard(s) of a chemical, including, where appropriate, the degree of hazard.
- g. **Precautionary Statement:** a phrase that describes recommended measures to be taken to minimize or prevent adverse effects resulting from exposure to a hazardous chemical or improper storage or handling of a hazardous chemical.

## HCS Pictograms and Hazards

<p><b>Health Hazard</b></p> 	<p><b>Flame</b></p> 	<p><b>Exclamation Mark</b></p> 
<ul style="list-style-type: none"> <li>• Carcinogen</li> <li>• Mutagenicity</li> <li>• Reproductive Toxicity</li> <li>• Respiratory Sensitizer</li> <li>• Target Organ Toxicity</li> <li>• Aspiration Toxicity</li> </ul>	<ul style="list-style-type: none"> <li>• Flammables</li> <li>• Pyrophorics</li> <li>• Self-Heating</li> <li>• Emits Flammable Gas</li> <li>• Self-Reactives</li> <li>• Organic Peroxides</li> </ul>	<ul style="list-style-type: none"> <li>• Irritant (skin and eye)</li> <li>• Skin Sensitizer</li> <li>• Acute Toxicity (harmful) <ul style="list-style-type: none"> <li>• Narcotic Effects</li> </ul> </li> <li>• Respiratory Tract Irritant</li> <li>• Hazardous to Ozone Layer (Non-Mandatory)</li> </ul>
<p><b>Gas Cylinder</b></p> 	<p><b>Corrosion</b></p> 	<p><b>Explosing Bomb</b></p> 
<ul style="list-style-type: none"> <li>• Gases under Pressure</li> </ul>	<ul style="list-style-type: none"> <li>• Skin Corrosion/ burns</li> <li>• Eye Damage</li> <li>• Corrosive to Metals</li> </ul>	<ul style="list-style-type: none"> <li>• Explosives</li> <li>• Self-Reactives</li> <li>• Organic Peroxides</li> </ul>
<p><b>Flame over Circle</b></p> 	<p><b>Environment (Non-Mandatory)</b></p> 	<p><b>Skull and Crossbones</b></p> 
<ul style="list-style-type: none"> <li>• Oxidizers</li> </ul>	<ul style="list-style-type: none"> <li>• Aquatic Toxicity</li> </ul>	<ul style="list-style-type: none"> <li>• Acute Toxicity (fatal or toxic)</li> </ul>

- The appropriate SDS will be reviewed by department supervisors to verify the warning label.
- Unlabeled containers should not be used.
- Secondary containers will be labeled.
  - A semi-permanent label with the following information will be used:
    - Identity of the hazardous chemical;
    - Appropriate hazards and warnings (including target organ effect); and
    - Name and address of the chemical manufacturer.
  - Use the secondary container only for the chemical identified on the label.
  - The secondary container will be emptied and washed as needed. The label will not be removed but will remain in place for future uses.
- Alternate methods of labeling (signs, placards, batch tickets, process sheets, and like written materials) may be used on individual stationary containers in place of affixed labels, provided the alternative method identifies the containers to which it applies, conveys the required information, and is readily accessible to employees in their work area throughout the shift.
- All primary and secondary containers will be regularly checked and verified that labels have not been defaced or removed and the information contained on them is current.

## Training and Communication

1. Before an assignment, each employee who works with or is potentially exposed to hazardous chemicals will receive training on the Hazard Communication Standard and the specific use of applicable hazardous chemicals.
2. Before the introduction of new hazardous material or updated hazard, each employee will be trained concerning specific use or handling procedures.
3. Training will emphasize the following elements:
  - a) A summary of the Hazard Communication Standard and Hazard Communication Plan;
  - b) Hazardous chemical properties, including visual appearance, odor, and methods that can be used to detect the presence or release of hazardous chemicals.
  - c) Physical and health hazards of the chemicals in the work area (including signs and symptoms of exposure) and any medical conditions that are known to be aggravated by exposure to the chemical.
    - d) Procedures to protect against hazards, including:
      - i) Personal protective equipment required.
      - ii) Proper use and maintenance.
      - iii) Work practices or methods to assure proper use and handling of chemicals.
      - iv) Emergency response procedures.
  - e) Work procedures to follow to assure protection when cleaning hazardous chemicals and leaks.
  - f) Location of SDS, interpretation of their contents and labeling information, as well as for instructions for employees on how to obtain and use appropriate hazard information.
  - g) Explanation of the labeling system and instructions for preparing secondary container labels.
4. Employee training will be documented and monitored for use in identifying training needs.
  - a) Retraining is required when a chemical hazard changes or when a new hazard is introduced into the workplace. It will also be policy to include hazard communications into regularly scheduled staff training meetings.
  - b) The training program will be assessed by obtaining input from employees regarding the training they have received and their suggestions for improvement.

## Non-Routine Tasks

1. Supervisors contemplating undertaking a non-routine task will ensure that employees are informed of chemical hazards associated with the performance of these tasks and that appropriate protective measures are taken before the beginning of the task.

# Ladder Safety Program

## Overview

This program applies to all employees (including employees and volunteers), who use ladders at work. The program describes how portable ladders are to be selected, used, inspected, and maintained, and implementation of the provisions within this program is the responsibility of each employee under the direction of individual departments.

## Requirements

1. Ladder Selection
  - a. Different ladders are made for specific uses. For a given task, you must select the right ladder to ensure your safety. Before purchasing a ladder, check with your immediate supervisor for requirements. New ladders must meet or exceed ANSI Type I-A specifications, with preference to fiberglass construction.
2. Step Ladders
  - a. These are self-supporting ladders with flat steps and hinged backs. They may be constructed of aluminum, fiberglass, or wood, and they must have a metal spreader that locks the ladder open. They should only be used on a firm and level surface. The maximum allowable length for a step ladder is 20 feet. These must never be used as a straight-type ladder (leaned up against a wall for use), as the footing was not designed for safe use in this manner.
  - b. Never stand or sit on the top two steps of a step ladder! A longer ladder may be required to safely perform a given task.
3. Straight-type Ladders
  - a. These are not self-supporting ladders. They must be leaned up against a stable surface, with a 1:4 slope (1 foot away from the wall for every 4 feet in height). They may be constructed of aluminum, fiberglass, or wood, in either single or extendable lengths. The maximum allowable length for a single ladder is 30 feet, while extension ladders may reach up to 72 feet. Both should be placed on a firm, stable footing, or utilize leg extensions or non-slip feet.
  - b. Straight-type ladders should extend at least 3 feet above the accessed area, and they must be tied off to a secure anchor point if they are to be used repeatedly in the same spot.
4. Rolling Ladders
  - a. These self-supporting, stair-type ladders exist primarily in warehouse environments where rolling surfaces are smooth and level. They have integral handrails and usually have locking devices for stability.

- b. Most rolling ladders are constructed of steel, so be aware of conductivity risks when working near electrical equipment.
5. Scaffolds
- a. Make sure scaffolds are of sufficient strength and rigidity to safely support the weight of employees and materials to which they may be subjected.
  - b. Equip all scaffolds six feet or higher with railings and toe-boards.
  - c. Remove all loose tools, materials, and equipment resting on the scaffold deck before moving the scaffold.
  - d. When working on all swing stage work, wear a safety harness.

## Safety Procedures

1. Never use a ladder unless you have been trained.
2. Always use three points of contact when using ladders (e.g.: two feet and one hand in contact with the ladder).
3. Portable ladders are to be used by only one person at a time unless specifically designed otherwise.
4. Protect the base of ladders in high traffic areas. If you must close an area due to safety concerns, barricade access routes, and post alternatives, as appropriate. If you cannot close an area, you must have another employee guard the ladder base.
5. Make sure ladder treads are clear of mud and debris before using. Employees may only use a contractor-owned ladder with the contractor's permission and only after assessing the ladders' condition.

### Never:

1. Carry awkward loads while using a ladder. Use ropes to haul heavy items up once you have reached your working height or surface.
2. Place tools or supplies on ladders steps if they could fall. Many injuries are caused by falling objects.
3. Use wood or metal ladders around exposed, energized electrical equipment. Ladders can provide energy an easy path to ground.
4. Paint a ladder. Paint conceals defects and can cover rating labels.
5. Reach far out from or turn excessively while on a ladder. These actions risk destabilizing the ladder.
6. Store a ladder in the rain or direct sun. These shorten ladder service lives.
7. Lean a ladder on windows, unsecured surfaces, or other unstable support. Your support point must be as stable as your base.
8. Use a defective ladder. Report these to your direct supervisor for repair or disposal.

## Carrying a Ladder

Proper technique should be followed when carrying a ladder to avoid injuries or damage. Be aware of obstacles in your surroundings when you carry a ladder. Move slowly, especially if you

are not used to using a ladder and follow these steps.

1. Place the ladder sideways on the ground with the rungs facing you. The top of the ladder should be to your left and bottom to your right.
2. Stand next to the rung that is about one-third up the ladder from the bottom end. The longer the ladder, the closer you will have to stand to the middle rung to maintain balance
3. Turn your body left so it is at a right angle to the ladder facing toward the top end. Bend at the knees and grab the outside rail with your right hand. If the ladder is too heavy to carry with one hand, grab the inside rail with your left hand at the same time.
4. Lift the ladder using your knees, not your back. If it feels like too much weight is tipping toward the front or back, set the ladder down and move a little closer to the end that feels more weighted before trying to lift again. Keep your arms fully extended while carrying.
5. Use your feet to turn, not your waist, and always check for obstacles at each end before making your turn.

### **Do Not Strain Yourself**

Do not carry an extension ladder more than 15 feet in length or weighing more than 40 pounds by yourself. If you do not feel comfortable carrying it by yourself, get help – there is no sense in potentially injuring your back. If you do carry a ladder with another person, make sure you are both on the same side to avoid accidents.

### **Inspection**

1. The safety of ladders must be assessed by the user before each use. Only ladders in good condition are to be used.
2. Periodic, comprehensive inspections are recommended to ensure each ladder is fit for use. Departments may wish to keep records of ladder inspections. Records may also include dated inspection verification stickers applied directly to ladders.
3. Unsafe ladders must be marked or tagged as unsafe (e.g.: Do Not Use or Damaged). The Safety Coordinator can help determine repair or disposal needs.

### **Training**

Training will include the following:

1. A summary of the requirements in this policy and general equipment safety
2. Orientation to the ladders that are available to an individual for tasks required for their job.
3. Physical hazards associated with ladder use in the workplace;
4. Proper use and safety procedures to protect against accidents, including placement and orientation of ladders.

# Machine Guarding Policy

## Purpose and Application

This policy document is designed to ensure that employees follow procedures which assure that equipment or machines are operated safely and meet state, federal, and industry machine guarding standards.

This applies to all employees who may work with, or adjacent to, equipment or machines that may pose a safety hazard.

“Machines” include, but are not limited to, fans, compressors, bench grinders, fuel pumps, dumpsters, trash compactors, and table saws. Any machine part, function, or process that may cause injury, must be safeguarded. When the operation of a machine or accidental contact with it can injure the operator or others in the vicinity, the hazards must be either controlled or eliminated.

A “machine hazard” occurs at the point of operation where the actual work is performed and can be created by:

1. components which transmit energy, such as pulleys, belts, chains, gears, couplings, or flywheels; or
2. other parts that move while the machine is working, including reciprocating, rotating, and transverse parts.

## Roles and Responsibility

The **supervisor** is responsible for ensuring guards on facility equipment and machines operated by personnel are kept in place and used as originally designed.

The **Safety Coordinator** periodically prepares and updates the written Machine Guarding Program and responds to any employee machine guarding concern or question.

All affected **employees** should report any unguarded machine hazard to their supervisor immediately, and all employees should forward any concerns or observations regarding the lack of machine guarding to their supervisor.



## Procedures

### Hierarchy of Guarding

Machine guarding decisions should be made in the following order of preference:

1. Design out or eliminate the hazard
2. Physically “engineer out” the exposure to the hazard
3. Guard the hazard
4. Require personal protective equipment
5. Use warning devices
6. Use warning signs
7. Use safe working practices and procedures

### Inspections and Audits

Machines that require guarding will be inspected regularly by department heads or their designee. Based on the results of these inspections, maintenance, or replacement of guards will be conducted as necessary. The Safety Coordinator will audit the program periodically and recommend appropriate corrective actions.

### Training

Any person who works near or adjacent to any sort of machine will receive “affected employee” training during initial orientation and every two years thereafter. Affected employees receive machine guarding training specific to the hazards being controlled on the piece of equipment. Employees performing maintenance related activities will receive machine guarding training periodically.

### Record Keeping

Departments maintain records of machine guarding training and copies of the annual inspections.

# Bloodborne Pathogens

## Exposure Determination

The City of Deadwood will perform an exposure determination concerning which employees may incur occupational exposure to blood or other potentially infectious materials. The exposure determination is made without regard to the use of personal protective equipment (i.e., employees are considered to be exposed even if they wear personal protective equipment).

This exposure determination is required to list all job classification in which all employees may be expected to incur such occupation exposure, regardless of frequency.

At the City of Deadwood, employees in the following job classifications are in this category:

- Police department
- Fire department
- Government Buildings
- Parks and Recreation
- Water and Sewer
- Streets

Additionally, a listing of job classifications in which some employees may have occupational exposure. Since not all employees in these categories would be expected to incur exposure to blood or other potentially infectious materials, tasks, or procedures that would cause these employees to have occupational exposure are also required to be listed to clearly understand which employees in these categories are considered to have occupational exposure. The job classifications and associated tasks for these categories are:

Job Classification	Tasks/Procedures
_____	_____
_____	_____
_____	_____

## Implementation Schedule and Methodology

### Compliance Methods

1. Universal precautions will be observed at this facility to prevent contact with blood or other potentially infectious materials.
  - a. All blood or other potentially infectious material will be considered infectious regardless of the perceived status of the source individual.
2. Engineering and work practice controls will be utilized to eliminate or minimize exposure to employees at this facility.
  - a. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be utilized.
  - b. At this facility, the following engineering controls will be used.

*(List controls, such as sharps containers, etc.)*

*Sharps Containers, Biohazard Labels*

---



---



---

3. The above controls will be examined and maintained on a regular schedule. The schedule for reviewing the effectiveness of the controls is as follows:

*(List schedule such as daily, weekly, once a week, etc. as well as who has the responsibility to review the effectiveness of controls.)*

*Monthly/Safety Coordinator and Department Heads*

---



---



---

4. Handwashing facilities are available to employees who incur exposure to blood or other potentially infectious materials. These facilities should be readily accessible after incurring exposure.
  - a. At this facility, handwashing facilities are located:

*(List locations, such as patient rooms, procedures area, etc.)*

*Restrooms, designated stations*

---



---



---

5. If hand washing facilities are not feasible, the employer is required to provide either an antiseptic cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes.
  - a. If these alternatives are used, the hands are to be washed with soap and running water as soon as feasible.

6. Employers who must provide alternatives to readily accessible handwashing facilities should list the location, tasks, and responsibilities to ensure maintenance and accessibility of these alternatives.
7. After removal of personal protective gloves, employees shall wash hands and any other potentially contaminated skin area immediately or as soon as feasible with soap and water.
8. If employees incur exposure to their skin or mucous membranes, those areas shall be washed or flushed with water as appropriate as soon as feasible following contact.

**Needles**

1. Contaminated needles and other contaminated sharps will not be bent, recapped, removed, sheared, or purposely broken.

**Work Area Restrictions**

1. In work areas where there is a reasonable likelihood of exposure to blood or other potentially infectious materials, employees are not to eat, drink, apply cosmetics or lip balm, or handle contact lenses.
2. Food and beverages are not to be kept in refrigerators, freezers, shelves, cabinets, or on countertops or benchtops where blood or other potentially infectious materials are present.
3. Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.
4. All procedures will be conducted in a manner that will minimize splashing, spraying, spattering, and generation of droplets of blood or other potentially infectious materials.

**Contaminated Equipment**

1. Equipment that has become contaminated with blood or other potentially infectious materials shall be examined before servicing or shipping and shall be decontaminated as necessary unless the decontamination of the equipment is not feasible.

**Personal Protective Equipment**

1. All personal protective equipment (PPE) used at this facility will be provided without cost to employees.
  - a. PPE will be chosen based on the anticipated exposure to blood or other potentially infectious materials.
  - b. The PPE will be considered appropriate only if it does not permit blood or other potentially infectious materials to pass through or reach the employees' clothing, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time the PPE will be used.
  - c. Protective clothing will be provided to employees by their supervisor.
  - d. All PPE will be cleaned, laundered, and disposed of by the employer at no cost to employees. All repairs and replacements will be made by the employer at no cost to employees.

- e. All garments penetrated by blood shall be removed immediately or as soon as feasible. All PPE will be removed before leaving the work area. The following protocol has been developed to facilitate leaving the equipment in the work area.
- f. Gloves shall be worn where it is reasonably anticipated the employees will have hand contact with blood, other potentially infectious materials, non-intact skin, and mucous membranes.
  1. Gloves will be available from the employee's supervisor
  2. *Disposable gloves* used at this facility are not to be washed or decontaminated for re-use and are to be replaced as soon as practical when they become contaminated or as soon as feasible if they are torn, punctured or when their ability to function as a barrier is compromised.
  3. *Utility gloves* may be decontaminated for re-use provided the integrity of the glove is not compromised. Utility gloves will be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.
- g. Masks, in combination with eye protection devices such as goggles or glasses with a solid shield or chin-length face shields, are required to be worn whenever splashes, spray, splatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can reasonably be anticipated.
- h. This plan also requires appropriate protective clothing to be used, such as lab coats, gowns, aprons, clinic jackets, or similar outer garments.

## Decontamination

1. Decontamination will be accomplished using bleach or EPA-approved germicide products.
2. All contaminated work surfaces will be decontaminated after completion of procedures and immediately, or as soon as feasible, after any spill of blood or other potentially infectious materials, as well as at the end of the work shift, if the surface may have become contaminated since the last cleaning.
3. Any broken glassware that may be contaminated will not be picked up directly with the hands.

## Regulated Waste Disposal

1. All contaminated sharps shall be discarded as soon as feasible in sharps containers, located in an area designated by each department.
2. Regulated waste other than sharps shall be placed in appropriate containers. These containers are located in an area designated by each department.

### Laundry Procedures

1. Laundry contaminated with blood or other potentially infectious materials will be handled as little as possible. Such laundry will be placed in appropriately marked bags at the location where it was used. Such laundry will not be sorted or rinsed in the area of use.
2. All employees who handle contaminated laundry will use PPE to prevent contact with the blood of other potentially infectious material.
3. Laundry at this facility will be cleaned in an area designated by each department.

### Hepatitis B Vaccine

1. All employees who have been identified as having exposure to blood or other potentially infectious materials will be offered the Hepatitis B vaccine, at no cost to the employee.
  - a. The vaccine will be offered within 10 working days of their initial assignment to work involving the potential for occupational exposure to blood or other potentially infectious materials unless the employee has previously had the vaccine or who wishes to submit to antibody testing which shows the employee to have sufficient immunity.
2. Employees who decline the Hepatitis B vaccine will sign a waiver that uses the following wording: *"I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring Hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with Hepatitis B vaccine, at no charge to myself. However, I decline Hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring Hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with Hepatitis B vaccine, I can receive the vaccination series at no charge to me."*
3. Employees who initially decline the vaccine but who later wish to have it may then have the vaccine provided to them at no cost.
4. Safety Coordinator – oversees the program  
Human Resources Department – offers vaccine and signs waivers  
The local clinic will administer the vaccine

### Post-Exposure Evaluation and Follow-Up

1. When the employee incurs an exposure incident, it should be reported to Human Resources.
2. All employees who incur an exposure incident will be offered post-exposure evaluation and follow-up.
3. This follow-up will include the following:
  - a. Documentation of the route of exposure and the circumstances related to the incident.
  - b. If possible, the identification and status of the source individual. The blood of the source individual will be tested (after consent is obtained) for HIV/HBV infectivity.

- c. Results of testing of the source individual will be made available to the exposed employee with the exposed employee informed as to the applicable laws and regulations concerning disclosure of the identity and infectivity of the source individual.
- d. The employee will be offered the option of having blood collected for testing of the employee's HIV/HBV serological status. The blood sample will be preserved for up to 90 days to allow the employee to decide if the blood should be tested for HIV serological status. However, if the employee decides before that time that testing will or will not be conducted, the appropriate action can be taken and the blood sample discarded.
- e. The employee will be offered post-exposure prophylaxis per the current recommendations of the U.S. Public Health Services as recommended by a local medical treatment facility.
- f. The employee will be given appropriate counseling concerning precautions to take during the period after the exposure incident. The employee will also be given information on what potential illnesses to be alert for and to report any related experiences to appropriate personnel.
- g. The following person has been designated to assure that the policy outlined here is effectively carried out as well as maintain records related to this policy: Human Resources.

#### **Interaction with Health Care Professionals**

1. A written opinion shall be obtained from the health care professional who evaluates employees of this facility. Written opinions will be obtained in the following instances:
  - a. When the employee is sent to obtain the Hepatitis B vaccine.
  - b. Whenever the employee is sent to a health care professional following an exposure incident.
2. Health care professionals shall be instructed to limit their opinions to:
  - a. Whether the Hepatitis B vaccine is indicated and if the employee has received the vaccine, or for evaluation following an incident;
  - b. That the employee has been informed of the results of the evaluation; and,
  - c. That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials.

#### **Training**

1. Training for all employees will be conducted during the initial assignment to tasks where occupational exposure may occur. Training for employees will include an explanation of:
  - a. Epidemiology and symptomatology of bloodborne diseases
  - b. Modes of transmission of bloodborne pathogens
  - c. This Exposure Control Plan (i.e. points of the plan, lines of responsibility, how the plan will be implemented, etc.)
  - d. Procedures that might cause exposure to blood or other potentially infectious materials at this facility.
  - e. Control methods that will be used at the facility to control exposure to blood or other potentially infectious materials.
  - f. Personal Protective Equipment available at this facility and who should be

- contacted concerning PPE
  - g. Post-exposure evaluation and follow-up
  - h. Signs and labels used at the facility
  - i. Hepatitis B vaccine program at the facility
2. All employees will receive annual refresher training.

**Recordkeeping**

1. As required by this plan, the following records will be maintained by **Human Resources**
  - a. Medical Record
  - b. Training Record
  - c. Sharps Injury Log



# Person Fall Arrest/Protection Plan

## Overview

The following information generally applies to all personal fall protection systems and is intended to assist City of Deadwood personnel with compliance with personal fall protection systems.

## Planning Considerations

Staff needs to plan before using personal fall protection systems. The most overlooked component of planning is locating suitable anchorage points. Such planning should ideally be done before the structure or building is constructed so that anchorage points can be used later for window cleaning or other building maintenance.

## Selection and Use Considerations

The kind of personal fall protection system selected should be appropriate for the employee's specific work situation. Freefall distances should always be kept to a minimum. Many systems are designed for particular work applications, such as climbing ladders and poles; maintaining and servicing equipment; and window cleaning.

1. Consideration should be given to the environment in which the work will be performed. For example, the presence of acids, dirt, moisture, oil, grease, or other substances, and their potential effects on the system selected should be evaluated. Staff will fully evaluate the work conditions and environment (including seasonal weather changes) before selecting the appropriate personal fall protection system. Hot or cold environments may also affect fall protection systems. Wire rope should not be used where electrical hazards are anticipated.
2. Where lanyards, connectors, and lifelines are subject to damage by work operations, such as welding, chemical cleaning, and sandblasting, the component should be protected, or other securing systems should be used. A program for cleaning and maintaining the system may be necessary.
3. **Testing Considerations.** Before purchasing a personal fall protection system, the safety coordinator will insist that the supplier provide information about its test performance (using recognized test methods) so we know that the system meets the testing criteria.

4. **Component compatibility considerations.** Ideally, a personal fall protection system is designed, tested, and supplied as a complete system. However, it is common practice for lanyards, connectors, lifelines, deceleration devices, body belts, and body harnesses to be interchanged since some components wear out before others. Employees should realize that not all components are interchangeable. For instance, a lanyard should not be connected between a body harness and a deceleration device of the self-retracting type (unless specifically allowed by the manufacturer) since this can result in additional free fall for which the system was not designed. Also, positioning components, such as pole straps, ladder hooks, and rebar hooks, should not be used in personal fall arrest systems unless they meet the appropriate strength and performance requirements. Any substitution or change to a personal fall protection system should be fully evaluated or tested by a competent person to determine that it meets applicable standards before the modified system is put in use. Rope must be used according to manufacturers' recommendations, especially if polypropylene rope is used.
5. **Employee training considerations.** Before an employee uses a fall protection system, supervisors will ensure that he or she is trained in the proper use of the system. This may include the following: The limits of the system; proper anchoring and tie-off techniques; estimating free fall distance, including determining elongation and deceleration distance; methods of use; and inspection and storage. Careless or improper use of fall protection equipment can result in serious injury or death. Supervisors and employees should become familiar with the material in this standard, as well as manufacturers' recommendations before a system is used. Employees need to be aware that certain tie-offs (such as using knots and tying around sharp edges) can reduce the overall strength of a system. Employees also need to know the maximum permitted free fall distance. Training should stress the importance of inspections before use, the limitations of the equipment to be used, and unique conditions at the worksite that may be important.
6. **Instruction considerations.** The safety coordinator will obtain comprehensive instructions from the supplier or a qualified person as to the system's proper use and application, including, where applicable:
  - a. The force measured during the sample force test;
  - b. The maximum elongation measured for lanyards during the force test;
  - c. The deceleration distance measured for deceleration devices during the force test;
  - d. Caution statements on critical use limitations;
  - e. Limits of the system;
  - f. Proper hook-up, anchoring and tie-off techniques, including the proper D-ring or another attachment point to use on the body harness;
  - g. Proper climbing techniques;
  - h. Methods of inspection, use, cleaning, and storage; and
  - i. Specific lifelines that may be used.

7. **Inspection considerations.** Personal fall protection systems must be inspected before initial use in each work shift. Any component with damage, such as a cut, tear, abrasion, mold, or evidence of undue stretching, an alteration or addition that might affect its effectiveness, damage due to deterioration, fire, acid, or other corrosive damage, distorted hooks or faulty hook springs, tongues that are unfitted to the shoulder of buckles, loose or damaged mountings, non-functioning parts, or wear, or internal deterioration must be removed from service immediately, and should be tagged or marked as unusable, or destroyed. Any personal fall protection system, including components, subjected to impact loading must be removed from service immediately and not used until a competent person inspects the system and determines that it is not damaged and is safe to use for personal fall protection.
  
8. **Rescue considerations.** When personal fall arrest systems are used, special consideration must be given to rescuing an employee promptly should a fall occur. The availability of rescue personnel, ladders, or other rescue equipment needs to be evaluated since there may be instances in which employees cannot self-rescue (*e.g.*, employee unconscious or seriously injured). In some situations, equipment allowing employees to rescue themselves after the fall has been arrested may be desirable, such as devices that have descent capability. **If an employee needs to be rescued dial 911.**
  
9. **Tie-off considerations.** Supervisors and employees should at all times be aware that the strength of a personal fall arrest system is based on its being attached to an anchoring system that can support the system. Therefore, if a means of attachment is used that will reduce the strength of the system (such as an eye-bolt/snap hook anchorage), that component should be replaced by a stronger one that will also maintain the appropriate maximum deceleration characteristics. The following is a listing of some situations in which supervisors and employees should be especially cautious:
  - a. Tie-off using a knot in the lanyard or lifeline (at any location). The strength of the line can be reduced by 50 percent or more if a knot is used. Therefore, a stronger lanyard or lifeline should be used to compensate for the knot, or the lanyard length should be reduced (or the tie-off location raised) to minimize free fall distance, or the lanyard or lifeline should be replaced by one which has an appropriately incorporated connector to eliminate the need for a knot.
  - b. Tie-off around rough or sharp (i.e. "H" or "I" beams) surfaces. Sharp or rough surfaces can damage rope lines and this reduces the strength of the system drastically. Such tie-offs should be avoided whenever possible. An alternate means should be used such as a snap hook/D-ring connection, a tie-off apparatus (steel cable tie-off), an effective padding of the surfaces, or an abrasion-resistant strap around the supporting member. If these alternative means of tie-off are not available, supervisors will try to minimize the potential free fall distance.

Knots. Sliding hitch knots should not be used except in emergencies. The one-and-one sliding hitch knot should never be used because it is unreliable in stopping a fall. The two-and-two or three-and-three knots (preferable) may be

used in emergencies; however, care should be taken to limit free fall distances because of reduced lifeline/lanyard strength. A competent or qualified person must inspect each knot in a lanyard or vertical lifeline to ensure it meets strength requirements.

- a. Eye-bolts. It must be recognized that the strength of an eye-bolt is rated along the axis of the bolt and that its strength is greatly reduced if the force is applied at right angles to this axis (in the direction of its shear strength). Care should also be exercised in selecting the proper diameter of the eye to avoid creating a roll-out hazard (accidental disengagement of the snap hook from the eye-bolt).
- 10. Vertical lifeline considerations.** Each employee must have a separate lifeline when the lifeline is vertical. If multiple tie-offs to a single lifeline are used, and one employee falls, the movement of the lifeline during the arrest of the fall may pull other employees' lanyards, causing them to fall as well.
- 11. Snap hook and carabiner considerations.** The following connections must be avoided unless the locking snap hook or carabiner has been designed for them because they are conditions that can result in rollout:
- a. Direct connection to webbing, rope, or a horizontal lifeline;
  - b. Two (or more) snap hooks or carabiners connected to one D-ring;
  - c. Two snap hooks or carabiners connected;
  - d. Snap hooks or carabiners connected directly to webbing, rope, or wire rope; and
  - e. Improper dimensions of the D-ring, rebar, or another connection point in relation to the snap hook or carabiner dimensions which would allow the gate to be depressed by a turning motion.
- 12. Freefall considerations.** Supervisors and employees will always be aware that a system's maximum arresting force is evaluated under normal use conditions established by the manufacturer. Personal fall arrest systems must be rigged so an employee cannot free fall more than 6 feet (1.8 m). Even a few additional feet of free fall can significantly increase the arresting force on the employee, possibly to the point of causing injury and possibly exceeding the strength of the system. Because of this, the free fall distance should be kept to a minimum and must never be greater than 6 feet (1.8 m). To assure this, the tie-off attachment point to the lifeline or anchor should be located at or above the connection point of the fall arrest equipment to the harness. (Otherwise, additional free fall distance is added to the length of the connecting means (i.e. lanyard)). Tying off to the walking-working surface will often result in a free fall greater than 6 feet (1.8 m). For instance, if a 6-foot (1.8-m) lanyard is used, the total free fall distance will be the distance from the walking-working level to the harness connection plus the 6 feet (1.8 m) of the lanyard.
- 13. Elongation and deceleration distance considerations.** During fall arrest, a lanyard will stretch or elongate, whereas activation of a deceleration device will result in a certain stopping distance. These distances should be available with the lanyard or device's instructions and must be added to the free fall distance to arrive at the total fall

distance before an employee is fully stopped. The additional stopping distance may be significant if the lanyard or deceleration device is attached near or at the end of a long lifeline, which may itself add considerable distance due to its elongation. Sufficient distance to allow for all of these factors must also be maintained between the employee and obstructions below, to prevent an injury due to impact before the system fully arrests the fall. A minimum of 12 feet (3.7 m) of lifeline should be allowed below the securing point of a rope-grab-type deceleration device, and the end terminated to prevent the device from sliding off the lifeline. Alternatively, the lifeline should extend to the ground or the next working level below. These measures are suggested to prevent the employee from inadvertently moving past the end of the lifeline and having the rope grab become disengaged from the lifeline.

14. **Obstruction considerations.** In selecting a location for tie-off, supervisors and employees should consider obstructions in the potential fall path of the employee. Tie-offs that minimize the possibilities of exaggerated swinging should be considered.

# Powered Industrial Trucks Policy

## Overview

All powered industrial trucks (PITs/forklifts) shall be operated and maintained per this policy. This guides the safe operation of propane, gasoline, and electric battery-powered forklifts and power lifts.

## Authority and Responsibility

*The Safety Coordinator* is responsible for:

1. Reviewing the PIT policy to assure compliance;
2. Coordinating and providing training of affected employees;
3. Inspecting recordkeeping material; and

*Supervisors* are responsible for:

1. Ensuring employees attend training and safely operate PITs;
2. Ensuring all equipment is in proper working condition;
3. Assuring operators perform appropriate pre-operation safety inspections and are properly trained before operating equipment;
4. Maintaining required documentation.

*Employees* are responsible for complying with this policy.

## General Requirements

1. Only trained and authorized operators shall be permitted to operate a PIT;
2. The employee is responsible for ensuring the safe operation of the PIT;
3. Modifications and additions that affect capacity and the safe operation of the PIT shall not be performed without the manufacturer's prior written approval. Capacity, operation, and maintenance instruction plates, tags, or decals shall be modified accordingly;
4. If the PIT is equipped with front-end attachments other than factory installed attachments, the PIT shall be marked to identify the attachments and show the approximate weight of the truck and attachment combination at maximum elevation with load laterally centered;
5. Nameplates and markings shall be in place and maintained in a legible condition.

## Pre-Operation Safety Inspection

Before operating a PIT, the employee shall perform a pre-operation safety inspection.

1. This inspection shall be made at least daily;
2. The inspection shall identify any conditions that could affect the safe operation of the PIT;
3. If any condition(s) exist, the PIT shall be removed from service and tagged "Out of Service" until the proper repairs or concerns are addressed;
4. Upon an operator discovering any concerns, immediately notify your supervisor so he or she can notify the person responsible for the repairs; and
5. Only outside contractors qualified to repair PITs shall perform all repairs and adjustments.

The keys to PITs shall be confiscated by the supervisor for any PIT that is determined to be unsafe.

## Fuel Handling and Storage

The following procedures shall be followed:

1. When refueling or recharging the batteries of a PIT, the operator shall ensure that the PIT is shut off and the parking brake is engaged;
2. Refueling and recharging shall be completed in areas that are designated and well ventilated. The safety coordinator will designate refueling/recharging stations.
3. Personal protective equipment (approved face shield, goggles, gloves) should be worn during some refueling and battery recharging operations;
4. Emergency eyewash/shower station shall be present in the area;
5. Smoking shall be prohibited in refueling and recharging areas. Fuel vapors and gases, which can escape from the battery and fuel vents, are extremely flammable;
6. Tools and other metallic objects shall be kept away from the top of uncovered batteries; and,
7. An ABC rated fire extinguisher shall be present in all vehicles.

## Workplace Hazards

The workplace contains many hazards that are easily detectable if a quick survey of the area is conducted. These hazards include, but are not limited to, the following:

1. Overhead obstructions such as fire protection sprinkler piping, ventilation ducts, lighting fixtures, or power lines. If the load you are moving is carried too high or the PIT mast is raised too high, damage can occur to the overhead obstruction and possibly cause injury to the operator or people in the immediate area;
2. Co-workers or pedestrians traveling to and from certain areas;
3. Poor housekeeping such as debris left on the floor and wet floors;
4. The poor condition of the ground surface such as uneven concrete, potholes, and cracks;

5. Poor visibility around corners. The operator's view from a PIT can be blocked or obstructed by the load. If there is not a clear view, drive in reverse or have a co-worker act as a "spotter" to direct you;
6. Operating a PIT in a confined area with poor ventilation can allow the PIT exhaust gases to accumulate. This creates a hazard not only for the forklift operator but also for others within the area or building.
7. For those individuals who wear eyeglasses, this could be a hazard when entering a warm atmosphere from a cold atmosphere (driving into a building from the outside) and having your eyeglasses steam up; and
8. Driving too fast for the conditions of the area. When operating a PIT, always remain alert and cautious.

Note the existing and potential hazards and conditions that do or could exist in your work environment. Whenever a hazard is discovered which requires action such as housekeeping, poor ground condition, or poor ventilation, immediately notify your supervisor to ensure the proper procedures are followed to address the hazards.

## Operating Procedures

When operating a PIT, always travel with the forks approximately four inches from the ground so they clear any uneven surfaces. Always survey the area ahead and to the sides as you travel. Always travel in reverse or use a "spotter" when the load you are carrying obstructs your view.

Some factors that could cause the PIT to tip over:

1. Overloads;
2. Unstable loads;
3. Load not centered on forks;
4. Traveling with the load raised;
5. Sudden stops and starts;
6. Making sharp turns; and
7. Traveling across a ramp or incline.

## Safety Practices

The following safety practices shall be adhered to at all times:

1. Wear seatbelts whenever the PIT is equipped with them;
2. Keep all body parts inside the driver's compartment;
3. Drive at safe speeds;
4. Do not carry passengers on the PIT;
5. No person shall be permitted to stand or pass under elevated portions of any PIT, whether loaded or empty;



6. All PIT operators working on platforms that are six feet above a lower level shall wear appropriate fall protection devices;
7. When traveling behind other PITs or vehicles, always maintain at least three forklift lengths from the vehicle or PIT ahead, and maintain control of the PIT at all times;
8. Slowly approach ramps and inclines straight, not at an angle;
9. When operating on an incline with a load, the load and forks should point up the incline regardless of the direction of travel. If you must come down an incline with a load, the operator should keep the load pointed up the incline and back the PIT down the incline.
10. When operating on an incline without a load,
11. Be cautious while on a ramp or incline. Follow manufacturer's recommendation for operations on cross slopes, inclines, and declines.
12. When parking a PIT and before dismounting or leaving the unit, shut-off the power. The operator shall never leave a running PIT unattended;
13. When the PIT is left unattended, the load shall be fully lowered, controls shall be neutralized, power shut off, brakes set and wheels blocked if PIT is parked on an incline;
14. Never park a PIT in front of any fire protection equipment, emergency exits, or in a manner that would obstruct a person from exiting the area;
15. If at any time during operation a PIT is found to require repair, defective, or in any way unsafe, it shall be immediately removed from service. The department supervisor shall be notified so he or she can notify the person responsible for the repairs; and

## Training

1. Employees designated to operate a PIT shall be required to participate in and complete a PIT training program offered through safety training to ensure the operator is properly trained to operate a PIT safely before assuming their responsibilities.
2. Training consists of a combination of formal instruction and practical training. Formal instruction includes lectures, interactive discussion, video, and written material handouts. Practical training includes demonstrations performed by the trainer, practical exercises performed by the trainee, and evaluation of the operator's performance in the workplace.
3. Trainees may operate a powered industrial truck only:
  - a. Under the direct supervision of persons who have the knowledge, training, and experience to train operators and evaluate their proficiency; and
  - b. Where such operation does not endanger the trainee or other employees.

## Curriculum

The curriculum of the training program shall, at a minimum, address the following topics:

1. Pre-Operation Safety Inspection;
2. Workplace Hazards;
3. Safe Driving and Operating Procedures;

4. Loading-Carrying-Unloading of Materials; and
5. Operation and Safety Driving Practical.

## **Retraining**

Employees shall be required to participate in refresher training annually. Retraining may also be deemed necessary when it has been documented that the operator has been observed to operate the PIT in an unsafe and/or inappropriate manner, involved in an accident or near-miss incident, is assigned to drive a different type of PIT or a condition in the workplace changes in a manner that could affect safe operation of the PIT as directed by this policy. Curriculum for retraining shall cover the same topics as the initial training.

# Respiratory Protection

## Overview

This program establishes practices and procedures for employee use of respiratory protection. We use only NIOSH-approved respiratory protection.

Implementation of this procedure ensures employee protection from respiratory hazards. All employees who use respiratory protection will be medically approved and trained per these requirements.

## Definitions

**Air-purifying respirator:** A respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

**Atmosphere-supplying respirator:** A respirator that supplies the user with air from a source independent of the ambient atmosphere. This includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

**Canister or cartridge:** A container with a filter, sorbent, catalyst, or a combination, which removes specific contaminants from the air that passes through the container.

**Demand respirator:** An atmosphere-supplying respirator that admits breathing air to the facepiece only when negative pressure is created inside the facepiece by inhalation.

**Emergency:** Any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may result in an uncontrolled significant release of an airborne contaminant.

**Employee exposure:** Exposure to a concentration of an airborne contaminant that would occur if the employee were not using respiratory protection.

**End-of-service-life indicator (ESLI):** A system that warns the respirator user of the approach of the end of adequate respiratory protection, (i.e. that the sorbent is approaching saturation or is no longer effective).

**Escape-only respirator:** A respirator meant to be used only for emergency exit.

**Filter or air purifying element:** A component used in respirators to remove solid or liquid aerosols from the inspired air.

**Filtering facepiece (dust mask):** A negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium.

**Fit factor:** A quantitative estimate of the fit of a particular respirator to a specific individual; typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

**Fit test:** The use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

**Helmet:** A rigid respiratory inlet covering that also provides head protection against impact and penetration.

**High-efficiency particulate air (HEPA) filter:** A filter that is at least 99.97% efficient in removing monodisperse particles of 0.3 micrometers in diameter. The equivalent NIOSH 42 CFR 84 particulate filters are the N100, R100, and P100 filters.

**Hood:** A respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

**Immediately dangerous to life or health (IDLH):** An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects or would impair an individual's ability to escape from a dangerous atmosphere.

**Interior structural firefighting:** The physical activity of fire suppression, rescue or both, inside buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.

**Loose-fitting facepiece:** A respiratory inlet covering designed to form a partial seal with the face.

**Negative pressure respirator (tight fitting):** A respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

**Oxygen deficient atmosphere:** An atmosphere with an oxygen content below 19.5% by volume.

**A physician or other licensed health-care professional (PLHCP):** An individual whose legally permitted the scope of practice (i.e., license, registration, or certification) allows him or her to provide some or all of the health care services required by this program.

**Positive pressure respirator:** A respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

**Powered air-purifying respirator (PAPR):** An air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

**Pressure demand respirator:** A positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

**Qualitative fit test (QLFT):** A pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

**Quantitative fit test (QNFT):** An assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

**Respiratory inlet covering:** The portion of a respirator that forms the protective barrier between the user's respiratory tract and an air-purifying device or breathing air source, or both. It may be a facepiece, helmet, hood, suit, or a mouthpiece respirator with nose clamp.

**Self-contained breathing apparatus (SCBA):** An atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

**Service life:** The period that a respirator, filter or sorbent, or other respiratory equipment provides adequate protection to the wearer.

**Supplied-air respirator (SAR) or airline respirator:** An atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

**Tight-fitting facepiece:** A respiratory inlet covering that forms a complete seal with the face.

**User seal check:** An action conducted by the respirator user to determine if the respirator is properly seated to the face.

## Responsibilities and Authorities

### The Safety Coordinator:

1. Has the authority and responsibility for preparing, maintaining, and administering the Respiratory Protection Program.
2. Has the authority for review and approval of internal procedures involving the use of respiratory protection equipment.
3. Shall direct an annual evaluation of the Respiratory Protection Program to be performed.
4. Should evaluate each job with a potential for overexposure to airborne contaminants

(or exposure to an oxygen-deficient atmosphere) and determine appropriate control measures.

5. Is responsible for the administration of the Respiratory Protection training program.

**All Supervisors:**

1. Shall ensure that all respirator users comply with the requirements of this program.
2. Supervisors are responsible for ensuring that personnel who may need to wear respirators receive the training outlined in this program.

**Employees:**

1. Are responsible for using respiratory protection equipment properly.
2. Are responsible, if their job requires the use of a respirator, to perform field inspection of respirators before and after each use per the manufacturer's recommendations.
3. Are responsible, if their job requires the use of a respirator, for properly sanitizing and storing respiratory protection devices between uses.

**Program Elements**

**Fit Test and Training**

1. Before being issued a negative pressure respirator, each employee must first have completed a respirator fit test administered by a qualified person. All fit testing shall be performed per Appendix A of 1910.134.
2. Employees will only be issued and allowed to wear respirator types, sizes, and brands for which an acceptable fit has been achieved. Should an acceptable fit not be achieved, the associate will be notified in writing by the Safety Coordinator.
3. Fit testing shall be repeated at least annually.
4. All fit test records shall be maintained by the Safety Coordinator.
5. Each respirator user shall attend annual training on the safe and proper use of respiratory protection equipment.
6. Each respirator user shall be trained on the following:
  - a. The reason and need for respiratory protection.
  - b. The nature and extent of potential effects of the respiratory hazards to which the wearer may be exposed.
  - c. Why respiratory protection is being used, as opposed to engineering and other control measures.
  - d. Why a particular type of respiratory protection is selected for a specific respiratory hazard.
  - e. The operation, capabilities, and limitations of respiratory protection devices and their components.
  - f. Instructions to inspect, assemble, don, check proper fit and wear the respirator per the requirements of this program.
  - g. How maintenance and repair of respirators will be done.
  - h. The proper care and field sanitation of various types of respiratory protection equipment.

7. Each respirator user shall have the opportunity to handle the respirator, learn how to don it and wear it properly, check its fit, wear it in a safe atmosphere and wear it in a test atmosphere.

### **Facial Hair, Eye, and Face Protection and Corrective Lenses**

1. Fit testing shall not be performed and respirators shall not be issued to any employee whose facial hair may interfere with the proper seal of the respirator.
2. The following conditions prohibit the use of a respirator:
  - a. Hair (beard, stubble, mustache, sideburns, low hairline, bangs) that passes between the face and the sealing surface of the respirator facepiece.
  - b. Hair (mustache, beard) that interferes with the function of one or more of the respirator valves.
  - c. Glasses having temple bars or straps that pass between the sealing surface of a respirator facepiece and the face.
  - d. Any head covering that passes between the sealing surface of a respirator facepiece and the face.
  - e. Spectacles, goggles, face shields, welding helmet, or other eye and face protective device that interferes with the seal of the respirator to the face.
  - f. Scars, hollow temples, excessively protruding cheekbones, or other unusual facial configuration that prevents the seal of a respirator facepiece to the face.
  - g. Weight fluctuations that may prevent an adequate seal.
  - h. Corrective lenses (approved safety glasses only) may be worn with half-facepiece respirators provided the glasses do not interfere with the seal of the respirator facepiece to the face.
  - i. If the attending physician indicates that the corrected vision is a requirement for the employee to safely perform his or her job and a full face respirator is required, we will provide a corrective lens spectacle kit for installation inside the full face respirator per our regular eye protection program.

### **Periodic Evaluation of Program Effectiveness**

1. The respiratory protection program shall be evaluated at least annually to ensure compliance with applicable standards and recognized best management practices.
2. Any changes incorporated in the program as a result of program evaluation shall be communicated to respirator users through the training program.

### **Approved Respirators**

1. Only respiratory equipment, components, and replacement parts having NIOSH (National Institute for Occupational Safety and Health) approval will be purchased and used.
2. Components may not be interchanged between equipment of different manufacturers or different models from the same manufacturer (unless the manufacturer has designed interchangeable parts).
3. No respirators other than those purchased and issued (or approved) by the

Safety Coordinator may be used.

### **Hazard Evaluation and Respirator Selection**

1. Each job with potential for overexposure to airborne contaminants (or exposure to an oxygen-deficient atmosphere) shall be evaluated by the Safety Coordinator. This evaluation shall be used to determine:
  - a. The type of hazard;
  - b. The identity of the hazardous contaminants;
  - c. Physical and chemical properties of the contaminants;
  - d. Potential effects on the body;
  - e. Representative airborne concentrations of the contaminants (both time-weighted average and short-term exposures, as appropriate);
  - f. Established permissible or recommended exposure levels;
  - g. Hazardous conditions that could be immediately dangerous to life or health (IDLH);
  - h. Warning properties of the contaminants.

### **Procedures**

#### **Issuance of Respirators**

1. The issue of respiratory protection equipment shall be performed only by qualified representatives authorized to do so by the Safety Coordinator.
2. Each respirator shall be inspected before being issued to verify it is in good condition.

#### **Use of Respirators**

1. Respirators may be used only following the training provided.
2. Respirators may be used only for the specific situation and contaminants for which the respirator was issued.
3. Sanitary wipes shall be used to sanitize respirators between users within the same issue period.
4. A field inspection of each respirator shall be performed by the user before each use.
5. A field test for leaks shall be performed by the user before each use.
6. Where respirators are required, each worker shall be issued a separate respirator. Respirators are not to be shared.
7. Respirators shall be donned before entering the contaminated area and shall not be removed until after leaving the contaminated area.
8. The use of a respirator shall not authorize any employee to enter an IDLH atmosphere. Only Emergency Response personnel are authorized to enter an IDLH atmosphere (for emergency purposes only).

#### **Maintenance of Respirators**

1. Employees to whom respirators are issued shall store them in a location that is sanitary



and protected against extreme cold, excessive moisture, exposure to damaging chemicals, and mechanical damage.

2. Respirators shall be stored in clean, sealed plastic bags.
3. When defects are observed during use or inspections, the device shall be returned as soon as possible to the Safety Coordinator (or other authorized issuing department) for repair or replacement.
4. A respirator known to be defective shall not be used or allowed to remain in the field under any circumstances.

### **Special Problems**

1. Mechanical or electronic speech transmission devices may be used only if they are NIOSH approved or are not placed inside the respirator or do not otherwise interfere with its operation.
2. All confined spaces are considered IDLH until proven otherwise.
  - a. Issuance of a respirator does not constitute authorization to enter a confined space.
  - b. No entry into a confined space will be performed without a confined space entry permit approved by an authorized individual.
3. Respirators will not be issued for routine use in low temperatures (below –18 degrees C or 0 degrees F) or high-temperature situations without special consideration of the stresses involved on personnel and the respiratory protection equipment. This requirement shall not preclude any emergency response.

# Welding, Cutting and Brazing Policy

## Overview

This policy provides the safety requirements for welding, cutting, and brazing operations.

## Responsibility

1. Each department engaged in welding, cutting, or brazing operations shall do so under this policy.
2. The Supervisor/Manager of each department conducting welding, cutting, or brazing operations shall be responsible for enforcing this policy.

## Hazards

There are several hazards to consider when performing welding, brazing, or cutting operations. These hazards include fires, explosions, electrocution, burns, welder's flash, oxygen depletion, and toxic fumes. Each Supervisor/Manager will be responsible to ensure their personnel are aware of these hazards and have taken adequate steps to prevent such an occurrence. All flammable and combustible materials will be removed at least 35 feet from the worksite.

## Personal Protective Equipment

It is the responsibility of the Supervisor/Manager to ensure each employee utilizes the appropriate equipment required to safely perform welding, cutting, or brazing operations. This includes personal protective equipment listed below:

1. Respirators should be used when ventilation is less than adequate.
2. Flame retardant clothing should be worn to prevent clothing from catching on fire.
3. High top boots should be worn to prevent burns to the legs and feet.
4. Gloves are recommended to prevent hand burns.
5. Personnel are required to use an approved welder's shield or goggles. All shields must be ANSI (American National Standard Institute) approved and the proper shade for the type of operation being performed.

## Fire Prevention

Fire extinguishing agents will be immediately available to extinguish accidental fires.

## Guards and Shields

All welding tables, areas, etc. shall be appropriately constructed to prevent bystanders from receiving unexpected flash burns if exposed to the arc flash. Solutions may include constructing panels around the welding area or hanging protective flame-retardant welding curtains around the area to prevent inadvertent flash burn.

## Training

Supervisors/Managers are required to ensure personnel who weld, cut, or braze have received proper training. They are also responsible to ensure personnel are trained in the following areas:

1. Fire extinguisher use.
2. Respirator training, if they are required to use a respirator.
3. How to respond to an emergency (emergency numbers and alarm locations).
4. Confined space training, which includes all requirements of the Confined Space Policy, if personnel are required to work in confined spaces.
5. Personal protective equipment and the type of shield required for their specific operation.

# Portable Power and Hand Tools

## General Requirements

All employees engaged in the use of hand or portable power tools should be familiar with the requirements as outlined in this section. All manufacturer safety practices must be employed while using tools. This means all employees must read, know, and understand all safeguards prior to using equipment. If an individual does not understand the safe operation of a piece of equipment, he/she should notify a supervisor to obtain clarification. All required personal protective equipment must be always worn when using equipment.

## Hand Tools and Equipment

1. All hand tools such as chisels, punches, etc. which develop “mushroomed” heads must be taken out of service and reconditioned.
2. Handles on hammers, axes and similar equipment that are cracked or fractured should be replaced prior to use. Care should be taken to assure the head is properly and securely attached.
3. Wrenches whose handles are bent or whose gripping surfaces are worn should be replaced.
4. Screwdrivers that are bent or whose ends are chipped should be replaced.
5. Tools should be stored in a secure, dry location where they won't be tampered with.
6. Tools should be stored in such a way that sharp edges do not present a danger when reaching into tool cribs and storage areas.
7. Tool cutting edges should be sharp so the tool will move smoothly and not bind.
8. All handles should be free of burs and splinters and should be firmly attached to the working head of the tool.

## Portable Power Operated Tools and Equipment

1. All Grinders, saws and similar equipment must be fitted with appropriate machine guarding as specified by the manufacturer.
2. The adjustable tongue on the top side of the grinder must be properly guarded to prevent physical contact by the operator.
3. All corded electrically operated tools and equipment must be effectively grounded by either a grounding prong or an approved double-insulated case. Inspect all prongs to ensure they are not bent or otherwise damaged and all cases to ensure they are not cracked or damaged.
4. All electric cords must be in good condition; free of frays or other physical defects.
5. Pneumatic hoses must be free of damage or deterioration.

## Abrasive Wheel Equipment

1. The work rest shall be within an inch of the wheel.
2. The adjustable tongue on the top side of the grinder must be within ¼ inch of the wheel.

3. The grinder is mounted in such a way that it is secure and will not shift or tip.
4. On-off control switches are clearly marked in red and readily accessible to the operator for easy deactivation of equipment in case of emergency.
5. The maximum RPM rating of the grinder is clearly posted and the maximum rating of the wheel does not exceed the grinder rating.
6. Grinding wheels are not cracked or otherwise damaged.
7. Grinders that use a coolant must be equipped with splash guards to prevent coolant from coming into contact with the operator.

### **Powder Actuated Tools**

- i) Powder-actuated tools are stored in their own locked container when not being used.
- ii) All powder-actuated tools will be left unloaded until they are actually used.
- iii) Only trained and authorized employees will use powder-actuated tools.



## Appendix B General Fire Prevention Checklist

Use this checklist to ensure fire prevention measures conform to the general fire prevention practices.

- Yes  No      Is the local fire department acquainted with your facility, its location, and specific hazards?
- Yes  No      If you have a fire alarm system, is it tested at least annually?
- Yes  No      If you have interior standpipes and valves, are they inspected regularly?
- Yes  No      If you have outside private fire hydrants, are they on a routine preventive maintenance schedule and flushed at least once a year?
- Yes  No      Are fire doors and shutters in good operating condition?
- Yes  No      Are fire doors and shutters unobstructed and protected against obstructions, including their counterweights?
- Yes  No      Are automatic sprinkler system water control valves, air pressure, and water pressure checked weekly or periodically?
- Yes  No      Has responsibility for the maintenance of automatic sprinkler systems been assigned to an employee or contractor?
- Yes  No      Are sprinkler heads protected by metal guards?
- Yes  No      Is proper clearance maintained below sprinkler heads?
- Yes  No      Are portable fire extinguishers provided in adequate number and type?
- Yes  No      Are fire extinguishers mounted in readily accessible locations?
- Yes  No      Are fire extinguishers recharged regularly with the recharge date noted on an inspection tag?
- Yes  No      Are employees periodically instructed in the use of extinguishers and fire protection procedures?

Completed by: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix C Exits Checklist

Use this checklist to evaluate the compliance with common practices on emergency exit routes.

- Yes  No      Is each exit marked with an exit sign and illuminated by a reliable light source?
- Yes  No      Are the directions to exits, when not immediately apparent, marked with visible signs?
- Yes  No      Are doors, passageways, or stairways that are neither exits nor access to exits, and which could be mistaken for exits, marked "NOT AN EXIT" or contain other appropriate markings?
- Yes  No      Are exit signs provided with the word "EXIT" in letters at least 5 inches high and with lettering at least one inch wide?
- Yes  No      Are exit doors side-hinged?
- Yes  No      Are all exits kept free of obstructions?
- Yes  No      Are there at least two exit routes provided from elevated platforms, pits, or rooms where the absence of a second exit would increase the risk of injury from hot, poisonous, corrosive, suffocating, flammable, or explosive substances?
- Yes  No      Is the number of exits from each floor of a building and from the building itself appropriate for the building occupancy? (NOTE: Do not count revolving, sliding, or overhead doors when evaluating whether there are sufficient exits.)
- Yes  No      Are exit stairways that are required to be separated from other parts of a building enclosed by at least one-hour fire-resistant walls (or at least two-hour fire-resistant walls in buildings over four stories high)?
- Yes  No      Are the slopes of ramps used as part of emergency building exits limited to one foot vertical and 12 feet horizontal?
- Yes  No      Are glass doors or storm doors fully tempered, and do they meet the safety requirements for human impact?
- Yes  No      Can exit doors be opened from the direction of exit travel without the use of a key or any special knowledge or effort?



- Yes  No      Are doors on cold storage rooms provided with an inside release mechanism that will release the latch and open the door even if it's padlocked or otherwise locked on the outside?
  
- Yes  No      Where exit doors open directly onto any street, alley, or another area where vehicles may be operated, are adequate barriers and warnings provided to prevent employees from stepping into the path of traffic?
  
- Yes  No      Are doors that swing in both directions and are located between rooms where there is frequent traffic equipped with glass viewing panels?

Completed by: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix D Flammable and Combustible Material Checklist

Use this checklist to evaluate the storage of flammable and combustible materials:

- Yes No      Are combustible scrap, debris, and waste materials such as oily rags stored in covered metal receptacles and removed from the worksite promptly?
- Yes No      Are approved containers and tanks used for the storage and handling of flammable and combustible liquids?
- Yes No      Are all connections tight on drums and combustible liquid piping vapor and liquid?
- Yes No      Are all flammable liquids kept in closed containers when not in use?
- Yes No      Are metal drums of flammable liquids electrically grounded during dispensing?
- Yes No      Do storage rooms for flammable and combustible liquids have appropriate ventilation systems?
- Yes No      Are “NO SMOKING” signs posted on liquefied petroleum gas tanks?
- Yes No      Are all solvent wastes and flammable liquids kept in fire-resistant covered containers until they are removed from the worksite?
- Yes No      Is vacuuming used whenever possible rather than blowing or sweeping combustible dust?
- Yes No      Are fuel gas cylinders and oxygen cylinders separated by distances or fire-resistant barriers while in storage?
- Yes No      Are fire extinguishers appropriate for the materials in the areas where they are mounted?\*
- Yes No      Are appropriate fire extinguishers mounted within 75 feet of outside areas containing flammable liquids and within 10 feet of any inside storage area for such materials?\*
- Yes No      Are extinguishers free from obstruction or blockage?\*

- Yes No      Are all extinguishers serviced, maintained, and tagged at least once a year?\*
- Yes No      Are all extinguishers fully charged and in their designated places?\*
- Yes No      Where sprinkler systems are permanently installed, are the nozzle heads directed or arranged so that water will not be sprayed into operating electrical switchboards and equipment?
- Yes No      Are "NO SMOKING" signs posted in areas where flammable or combustible materials are used or stored?
- Yes No      Are safety cans utilized for dispensing flammable or combustible liquids at the point of use?
- Yes No      Are all spills of flammable or combustible liquids cleaned up promptly?
- Yes No      Are storage tanks adequately vented to prevent the development of an excessive vacuum or pressure that could result from filling, emptying, or temperature changes?

\*(NOTE: Use of fire extinguishers is based on policy regarding employee fire fighting in your Emergency Action Plan and local fire code.)

Completed by: \_\_\_\_\_

Date: \_\_\_\_\_

Appendix E  
**Computation of Actual Noise Reduction Ratings (NRR)**

- The degree of protection that a hearing protection device provides is referred to as the Noise Reduction Rating or NRR. Because the listed NRR is established for C-weighted noise measurements, and our measurements have been collected using an A-scale, 7 dB will be subtracted from the NRR to take this into account.
- NRRs for ear protection are established in laboratory settings under ideal conditions, and it is unlikely that the noise reduction in industrial areas will be as substantial as that recorded in the lab. Because of these differences between laboratory and “real world” performance, the following NIOSH derating scale will be used when calculating noise reduction:

Hearing Protection Device	Derating scale
Earmuffs	25% reduction
Formable earplugs	25% reduction
All other earplugs or semi-aural devices	25% reduction

1. Using this method, a formable earplug with a NRR of 30 dB actually provides:
  - a.  $30 \text{ dB (listed NRR)} - 7 \text{ (A-scale to C-scale adjustment)} = 23 \text{ dBA reduction - laboratory measurement}$
  - b.  $23 \text{ dBA} \times 75\% = \mathbf{17.3 \text{ dB}}$  of "real-world" noise reduction.
2. Products with the highest NRR are not always the best choice for hearing protection. Too much noise reduction, when not necessary, can lead to degradation of communication, especially in individuals who have some degree of hearing loss.
3. Communication problems associated with maximum NRR devices may lead to accidents and poor employee acceptance of the hearing conservation program.
4. The following general guide to protection levels will be used:

If the device reduces the noise to:	Then the protection is:
> 85 dB	Insufficient
80 - 85 dB	Acceptable
75 - 80 dB	Good
70 - 75 dB	Acceptable
<70 dB	Too high

**Appendix F**  
**Forklift Operator's daily checklist**

Forklift Number:

Date:

Driver:

Time:

Item	OK all boxes must be filled x or v	Actions taken
<b>Tires</b> Check all tires and look for any visual wear and damage, wheel nuts and pressure		
<b>Fluids</b> Check engine oil, hydraulics, battery, fuel, and coolant; power steering		
<b>Settings</b> Mirrors adjusted and clean; windscreens condition and clean Air filter indicator (if diesel)		
<b>Fuel</b> Security of LPG gas cylinder, tank in date and condition of the system; compliance plate for gas installation		
<b>Seating</b> Check the condition and adjustment of seating		
<b>Warning devices</b> Check lights, horn and reversing beeper		
<b>Capacity</b> Check load capacity plate is fitted, legible and correct		
<b>Mast</b> Check mast for any wear to lift chains and guides, inspect hydraulic cylinders, look for any leaks		
<b>Forks</b> Inspect forks for any sign of damage		
<b>Seatbelt</b> Make sure the seatbelt is securely fastened		
<b>Once started observe:</b>		
<b>Controls</b> After start up, check all pedals and controls		
<b>Brakes</b> Check brakes and parking brake for proper operation		

## Appendix G

JOB HAZARD ANALYSIS (JHA)					Date: YYYYMMDD			
<b>1. JOB DESCRIPTION</b>								
a. TASK DESCRIPTION:				JHA #	001			
b. FACILITY/DEPT:				<input checked="" type="checkbox"/> New Assessment <input type="checkbox"/> Revised Assessment				
<b>2. ANALYSIS CONDUCTED BY</b>								
a. Name (Last, First)		Signature:		b. Title/Position				
c. Reviewed By (Last, First, Position)				d. Date YYYYMMDD				
The JHA process follows the first 3 steps of the Risk Management process.  Step 1—Identify the hazards  Step 2—Assess the hazards  Step 3—Develop controls and make risk decisions		<b>Risk Assessment Matrix</b>		Probability (expected frequency)				
		Severity (expected consequence)	A	B	C	D	E	
		Catastrophic: Death or unacceptable loss or damage	I	EH	EH	H	H	M
		Critical: Severe injury, illness, loss or damage	II	EH	H	H	M	L
		Moderate: Minor injury, illness, loss or damage	III	H	M	M	L	L
Negligible: Minimal injury, illness, loss or damage	IV	M	L	L	L	L		
<b>3. JOB TASK STEPS HAZARD ANALYSIS</b>								
a. SUBTASK/SUBSTEP	b. BODY PART at Risk	c. HAZARD	d. RISK LEVEL	e. PPE				
<b>4. OTHER SAFETY PRECAUTIONS (ENGINEERING OR ADMINISTRATIVE CONTROLS)</b>								
<b>5. TRAINING/LICENSING/CERTIFICATION REQUIRED</b>								
<b>6. JOB TASK RESIDUAL RISK LEVEL IF CONTROLS ARE IMPLEMENTED:</b>								
EXTREMELYHIGH (EH)		HIGH (H)		MEDIUM (M)				
				<input checked="" type="checkbox"/> LOW (L)				

## Appendix H Good Catch Report

### Good Catch Report Form

A good catch is a potential hazard or incident that has not resulted in any personal injury or property damage. Some examples of good catches are unsafe conditions, improper use of equipment, use of faulty equipment, or not following proper procedures. It is everyone's responsibility to report and correct any of these potential hazards immediately. Please use this form to report a good catch and assist in preventing future incidents and making our workplace safer.

#### When and Where:

- Department:
- Location:
- Building (if applicable):
- Date of Incident:
- Time of Incident:
- Date Reported:

#### Circle All Appropriate Conditions:

- Good catch
- Safety concern
- Safety suggestion
- Other (describe)

#### Circle Type of Concern:

- Unsafe Act
- Unsafe Condition of Area
- Unsafe Condition of Equipment
- Unsafe Use of Equipment
- Other (describe):

#### Description:

- Describe the potential incident/hazard/concern and possible outcome (in as much detail as possible):
  
- Safety Suggestion:

#### Contact Information (optional):

- Name:
- Phone Number:
- Email Address:

## Appendix I Confined Space Permit

### CONFINED SPACE ENTRY PERMIT

**Confined Space Location/Description/ID Number** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Purpose of Entry** \_\_\_\_\_

**Time In:** \_\_\_\_\_

**Permit Canceled Time:** \_\_\_\_\_

**Time Out:** \_\_\_\_\_

**Reason Permit Canceled:** \_\_\_\_\_

**Supervisor:** \_\_\_\_\_

**Rescue and Emergency Services-**

Hazards of Confined Space	Yes	No	Special Requirements	Yes	No
Oxygen deficiency			Hot Work Permit Required		
Combustible gas/vapor			Lockout/Tagout		
Combustible dust			Lines broken, capped, or blanked		
Carbon Monoxide			Purge-flush and vent		
Hydrogen Sulfide			Secure Area-Post and Flag		
Toxic gas/vapor			Ventilation		
Toxic fumes			Other- List:		
Skin- chemical hazards			<b>Special Equipment</b>		
Electrical hazard			Breathing apparatus- respirator		
Mechanical hazard			Escape harness required		
Engulfment hazard			Tripod emergency escape unit		
Entrapment hazard			Lifelines		
Thermal hazard			Lighting (explosive proof/low voltage)		
Slip or fall hazard			PPE- goggles, gloves, clothing, etc.		
			Fire Extinguisher		

**Communication Procedures:** \_\_\_\_\_

DO NOT ENTER IF PERMISSABLE ENTRY LEVELS ARE EXCEEDED		Test Start and Stop Time:	
		Start	Stop
	Permissible Entry Level		
% of Oxygen	19.5 % to 23.5 %		
% of LEL	Less than 10%		
Carbon Monoxide	35 PPM (8 hr.)		
Hydrogen Sulfide	10 PPM (8 hr.)		
Other			

Name(s) or Person(s) testing: \_\_\_\_\_

Test Instrument(s) used- Include Name, Model, Serial Number and Date Last Calibrated: \_\_\_\_\_

CFM-Ventilation	Size-Cubic Feet	Pre Entry Time	<input type="checkbox"/> Central Notified Before Entrance	Time Notified:
			<input type="checkbox"/> Central Notified After Entrance	Time Notified:



Authorized Entrants

Authorized Attendants

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

<b>PERMIT AUTHORIZATION</b>	
<b>I Certify that all actions and conditions necessary for safe entry have been performed.</b>	
Name-Print:	
Signature:	
Date:	Time:

**Entry Procedure Checklist:** Complete the following steps before, during, and after a confined space entry:

**Step 1**

Obtain a Permit-Confined Space Entry Form from Program Coordinator.

**Step 2**

Notify Supervisor before the **Confined Space Entry**

**Step 3**

Verify Confined Space Meter has been calibrated and is in working order

**Step 4**

Complete the top portion of the Permit-Confined Space Entry Form

**Step 5**

Ensure all rescue equipment (e.g. tripod, body-belt, lanyard) is in place prior to entry

**Step 6**

Monitor the confined space with the MSA 4-Gas Detector prior to entry. The entrant and attendant should sign the permit authorization section on the bottom of the permit to ensure all actions and conditions necessary for safe entry have been performed.

**Step 7**

Employee entering the confined space should wear the 4-Gas Detector after the pre-atmosphere test. The employee should also have a full body harness and lanyard attached to the rescue tripod. Employee shall have a radio and any other necessary personal protective equipment.

**Step 8**

Employee can enter the confined once Step 7 is completed. The entrant and attendant should complete the Hazards of Confined Spaces and Special Requirements Section of the Permit-Confined Space Entry Form once the employee is within the confined space. The entrant should also gather the % Oxygen, % Explosive Gases, Carbon Monoxide, and Hydrogen Sulfide readings and communicate them to the attendant to place on the Permit Form.

**Step 9**

The attendant should maintain constant communication with the entrant until the entrant has exited the confined space.

**Step 10**

The attendant should contact Supervisor once the entrant has exited the confined space.

**Step 11**

The Permit-Confined Space Entry Form should be given to program coordinator, to file in the Confined Space Records.

## Appendix J

# Motor Vehicle Use Policy

### Purpose and Scope:

- A. The purpose of this policy is to communicate the standards and practices for the use and operation of vehicles on behalf of the City of Deadwood ("City").
- B. This Motor Vehicle Operation Policy and Procedure ("Policy") applies to the use and operation of City-owned, leased, or rented motor vehicles ("City Vehicles") by employees and authorized temporary or contract personnel ("Operators").
- C. This Policy sets minimum requirements and may be supplemented by individual department procedures.
- D. City departments with established motor vehicle operation, inspection, parking, or backing procedures must meet or exceed these minimum requirements.

### City Vehicle Operation:

#### A. Responsibilities

- 1. Operators are responsible for maintaining their City Vehicle and operating per federal, state, and local laws, safe driving practices, and the minimum requirements of this Policy.
- 2. Department heads and supervisors are responsible for notifying affected personnel of the requirements of this Policy.

#### B. General Operating Standards

- 1. The assignment and use of a City Vehicle may be revoked, modified, or otherwise changed by a supervisor. The City reserves the right to obtain a motor vehicle report on any Operator at its discretion.
- 2. Operators must have a valid and appropriate driver's license issued for the class of City Vehicle they operate.
- 3. Operators are responsible for the safe operating condition of the City Vehicle. An operator level pre-trip inspection per the supplied checklist should be done before the use of any City Vehicle.

4. Vehicles with an unsafe condition that affects safe operation may not be driven. Vehicles with an unsafe condition will be locked and tagged out by the Fleet Foreman or his/her designee to prevent use.
5. Seat belts must be worn by the Operator and all occupants.
6. Except for those positions for which a firearm is issued by the City, carrying firearms in City Vehicles is prohibited. Carrying illegal substances, except in the normal course of work duties, in City Vehicles is prohibited.
7. City Vehicles may not be used to pull personal trailers, boats, campers, or any similar items. City Vehicles will not be used for any personal or non-City commercial use. City Vehicles may only be used for City-related purposes.
8. While operating a City Vehicle, Operators shall not: (a) type or read messages on any electronic device; (b) check voicemail messages; (c) or use the internet or social media on any electronic device.
9. The use of cell phones while operating a City Vehicle is prohibited. The use of a cell phone with a hands-free device or other electronic equipment should be avoided while driving a City Vehicle. If a hands-free device is not available and use of a cell phone is necessary (including answering a phone call), the Operator must pull over to a safe place and put the vehicle in "Park".
10. Smoking is prohibited in all City Vehicles.
11. Vehicle engines must be turned off while refueling. Smoking is prohibited within 50 feet of refueling areas.
12. City Vehicles may only be operated by City employees, volunteers, or any other person authorized by the city administrator to operate the vehicle.
13. Only City personnel are allowed to ride in City Vehicles. Other personnel are allowed for business purposes only with the approval of the department head.
14. Operators shall not tamper with or disable vehicle safety systems, install enhancing technology, or perform any modification to a City Vehicle without the authorization of the department head.
15. All exterior vehicle lighting should be on at all times.

16. The maximum allowable time that an employee is allowed to operate a City Vehicle is 12 hours based on when the employee's shift started to when the shift ends regardless of breaks taken (i.e. 4:00 AM-4:00 PM). An 8 hour rest period is then required before the future operation of City Vehicles.

### **C. Parking Requirements**

1. Operators must exercise reasonable care while parking City Vehicles. Operators should plan their park by surveying the parking location, identifying potential hazards, and evaluating the parking options. Before moving any parked vehicle, a perimeter inspection shall be completed to ensure the vehicle can be safely moved.
2. When possible, Operators of City Vehicles must park the City Vehicle by backing into the parking spot or by pulling through a parking spot so the first motion when exiting the parking spot is a forward motion.
3. If chocks are available, all City Vehicles must use the chocks when the situation dictates (i.e. parking on a steep slope, parking on slippery surfaces, heavy load, etc.) If in doubt the employee should use chocks. All-City Vehicles greater than 26,000 GVWR must be chocked when parked.

### **D. Backing Procedures**

1. Operators must exercise care while backing City Vehicles. If a passenger is available, the passenger shall get out and guide the driver into the parking spot, remaining visible at all times to the driver.
2. If the Operator is not sure whether the area behind the vehicle is clear when backing, the Operator must stop, get out, and check the area. Before the driver exits, the driver shall turn on the emergency flashers to alert nearby traffic that they are out of the vehicle.

### **E. Driving Violations**

1. Any costs associated with tickets, fines, or other penalties incurred for violation of federal, state, or local regulations are the responsibility of the Operator.
2. Operators must immediately inform their supervisor of (1) any driving violations arising out of the operation of a City Vehicle; and (2) all serious violations, license suspension or revocations arising out of the operation of personal vehicles outside of the scope of employment with the City. Serious violations include, but are not limited to Driving

Under the Influence (DUI), Driving While Intoxicated (DWI), reckless driving, endangering the lives of others, racing, hit, and run, and assault from the operation of a motor vehicle.

3. Operators convicted of any of the following charges while driving any City Vehicle may be subject to disciplinary action up to and including termination:
  - a. DUI/DWI;
  - b. Reckless driving or racing;
  - c. A felony involving a motor vehicle;
  - d. Crime involving the knowing transportation, possession, or unlawful use of controlled or restricted drugs;
  - e. Leaving the scene of a vehicular accident: or
  - f. Any other violation the City deems severe enough to warrant disciplinary action.

#### **F. Loss of Driving Privileges**

1. City personnel are not permitted to drive a City Vehicle if they do not have a valid driver's license or if the City revokes an Operator's driving privileges of City Vehicles. To retain or recover driving privileges, the City may require the Operator to attend instructional driving courses.

#### **G. Accident and Incident Reporting**

1. If involved in a collision with a City Vehicle, call 911 to report the collision, and immediately notify your supervisor. All collisions occurring within the scope of the Operator's employment, regardless of fault or severity, must be reported on the AUTO/PROPERTY CLAIM NOTICE form.
2. The Operator should exchange insurance/contact information with the other party. Do not comment upon, provide an opinion about, assume, or admit fault. Never become involved in an argument about the accident. Always provide complete cooperation with law enforcement officers.

#### **H. Vehicle Type and Use Requirements and Restrictions**

1. Employee-Owned Vehicles
  - a. The use of personal vehicles for business-related purposes is discouraged. Operators should utilize pool cars or City rental vehicles for City business whenever possible.
  - b. Operators using personal vehicles for City business must maintain liability

insurance. The City is not responsible for any loss or damage to an employee's vehicle or personal belongings contained in the vehicle and will not pay or reimburse Operators for any such loss, damage, or applicable insurance policy deductible.

## 2. Pool Vehicles

- a. Pool vehicles are vehicles maintained at City business locations for the business-related use of employees or other authorized users on a short-term basis.
- b. Operators must return pool vehicles in a clean condition and with a full gas tank. Operators must remove garbage and refuse and wash the vehicle if necessary. Pool vehicles requiring repairs must be immediately reported to the department head.

## 3. Assigned City Vehicles

- a. Employees may be assigned specific City Vehicles for business and commuting purposes. This policy and procedure applies to assigned vehicles, including the requirement that only City personnel are authorized to ride in or operate a City Vehicle.

## Responsibility

It is the responsibility of staff and patrons to adhere to this policy. It is the responsibility of the Safety Coordinator or designee to review and update this policy as needed. Any substantive changes must be approved by the City Commission.

OFFICE OF  
**Planning & Zoning**  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 578-5084



*"The Historic City of the Black Hills"*  
Deadwood, South Dakota 57732

**TRENT MOHR**  
Building Inspector  
Dept. of Planning & Zoning  
Telephone: (605) 578-2082  
Fax: (605) 578-2084

## **MEMORANDUM**

---

**Date:** June 28, 2024  
**To:** Mayor Dave Ruth Jr. and Kevin Kuchenbecker, Zoning Administrator  
**Re:** Appointments to the Board of Appeals

---

Gentlemen, on May 31<sup>st</sup> of 2024 the terms of two members of the Board of Appeals expired. I have spoken to Jason Rakow who is a residential contractor and Anita Knipper who has degrees in construction safety and environmental engineering regarding serving on this board. Both have indicated that they are willing serve.

I am recommending that Anita Knipper and Jason Rakow be appointed to the Board of Appeals with their terms commencing on July 16<sup>th</sup> 2024 and expiring May 31<sup>st</sup> 2027.

Appointments to the Board of Appeals are made by the Mayor and approved by the City Commission.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Trent Mohr', is written over a horizontal line.

Trent Mohr  
Building Inspector

OFFICE OF  
**PLANNING, ZONING AND  
 HISTORIC PRESERVATION**  
 108 Sherman Street  
 Telephone (605) 578-2082  
 Fax (605) 578-2084



**Kevin Kuchenbecker**  
 Planning, Zoning &  
 Historic Preservation Officer  
 Telephone (605) 578-2082

## MEMORANDUM

Date: July 9, 2024

To: Deadwood City Commission

From: Kevin Kuchenbecker, Historic Preservation Officer

Re: Request for Financial Support - Native American Concert at Outlaw Square

Outlaw Square is preparing a free concert on Tuesday, July 23, 2024. Arrangements are being made to hire the award-winning Native American music group Brule'. Their electrifying show consists of a 5-piece rock ensemble augmented with an array of traditional Native American instrumentation. Paired with the stunning steps of one of the top Native American dance troupes, their authenticity brings a multi-dimensional art form to this cultural rock opera.

Outlaw Square is requesting \$5,000.00 to assist in the booking and production costs of bringing this great group to Deadwood and presenting it to our residents and visitors for free. In the last couple of years, it has been Historic Preservation Office and Commission's goal to promote more for our Native American population, culture and their role in Deadwood's history.

Requesting approval of the funding request for \$5,000.00 for the Native American music group Brule' to be paid out of the Public Education line item.

### **RECOMMENDED MOTION:**

*Move to approve funding for the Native American music group Brule' concert at Outlaw Square on July 23, 2024, in the amount of \$5,000.00 to be paid out of the Public Education line item.*



**PARKING LEASE WITH  
CONRAD COMPANIES**

This Lease Agreement is made and entered into by and between the CITY OF DEADWOOD, a governmental subdivision of the State of South Dakota, with offices located at 102 Sherman Street, Deadwood, South Dakota, hereinafter referred to as "CITY", and Conrad Companies, at 68 Sherman Street, Deadwood, South Dakota 57732, hereinafter referred to as "CONRAD".

CITY and CONRAD agree that CONRAD shall rent (2) two spaces for the parking of motor vehicles, excluding buses and other large tourist conveyance vehicles on Siever Street under the following terms and conditions:

I.

The term of this lease shall be for one (1) year, to commence on July 1, 2024 and terminate on June 30, 2025. The parties acknowledge and agree that CONRAD, its employees, representatives and invitees may use (2) two parking spaces Monday through Friday from 8:00 a.m. to 5:00 p.m. daily.

II.

CONRAD agrees to pay to CITY as rent the sum of one hundred fifty and No/100ths Dollars (\$150.00) plus tax per month for the entire (1) one-year period of this lease with the first payment due and payable on or before the 1<sup>st</sup> day of July, 2024, with payment made the first day of each following month through June 30, 2025.

The parties acknowledge that the rent to be paid for this lease is a rental amount for a full (1) one-year period, and that CONRAD is obligated to pay this parking fee per space per month for the full (1) one year period without regard to whether or not CONRAD uses said space.

All rent shall be paid and received by the City Finance Officer on the due date or lessee shall be assessed a late charge of (10%) ten percent of the unpaid and outstanding rent. If the rent payment is more than (15) fifteen days overdue, CITY may, at its option, deem this agreement void and take any necessary action to re-rent the space without notice to renter.

CONRAD must be in good standing with the finance office and building dept. or contract will be null and void.

### III.

CONRAD and CITY agree that CONRAD shall be assigned specific spaces by CITY on Sver Street and that such space will be available at all times described above for use by CONRAD.

CONRAD shall be responsible for all costs of signage, CITY shall install all signage. CONRAD agrees to abide by all rules and regulations established by CITY for Siever Street. This lease shall not be assigned, sublet, or transferred to any other party, without the written consent of CITY.

### IV.

CONRAD agrees that it is merely renting a space to park a vehicle and that such rent does not include protection of the vehicle. CONRAD acknowledges and agrees that it bears all risks of the vehicle being stolen or damaged and holds CITY harmless from any and all liability for damages to any vehicles parked Siever Street including but not limited to theft or damage to vehicles or property in said vehicles. CITY specifically disclaims any responsibility, expressed or implied, to protect against loss or damage to CONRAD vehicles or its contents while parking on Siever Street. CONRAD agrees that no bailment is created for its vehicle or the contents under this Lease Agreement, and that shall use Siever Street at its own risk and responsibility.

### V.

CONRAD shall assume all risks incident to the use of the premises as a parking spot and shall indemnify CITY against any loss, damage or expense resulting from personal injury or damage to, or loss of property caused in any manner by CONRAD, and against any loss, damage, or expense resulting from injury to CONRAD.

### VI.

This lease shall be renewed automatically at the expiration of its initial term and additional like terms, provided that either CONRAD or CITY may terminate this agreement by notifying the other party in writing at least (30) thirty days prior to the Expiration date of this lease agreement or any automatic renewal of the same.

Dated this 15th day of July, 2024.

CITY OF DEADWOOD

\_\_\_\_\_  
David Ruth Jr., Mayor

ATTEST:

\_\_\_\_\_  
Jessica McKeown, Finance Officer

Dated this \_\_\_\_ day of July, 2024.

Conrad Companies

\_\_\_\_\_  
By: Trinity Conrad

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 722-0786



**Mike Runge**  
Archivist  
Telephone (605) 578-2082  
Michael@cityofdeadwood.com

## MEMORANDUM

---

**Date:** July 11, 2024  
**To:** Deadwood City Commission  
**From:** Kevin Kuchenbecker, Planning, Zoning and  
Historic Preservation Commission  
Mike Runge, City Archivist  
**Re:** Purchase of Workstation for City Archives

---

The City of Deadwood Archives is requesting permission to purchase from Golden West Technologies a HP ZBook Studio G10 16" Mobile workstation. This will replace one of three laptops purchased by the City Archives in 2017.

At the present time, the City Archives laptop's hardware is aging out and is not compatible with current versions of Adobe Creative Cloud that is used daily (Photoshop; Illustrator; InDesign and Acrobat).

Included in this memorandum is a quote and email discussing the current issues regarding why a new laptop would be a welcomed addition to the City Archives.

The Historic Preservation Commission recommended approval on July 10, 2024.

## RECOMMENDATION

*Recommend to the City Commission to allow the City Archives permission to purchase from Golden West Technologies a HP ZBook Studio G10 16" Mobile workstation. The cost for this laptop will not exceed \$3,600.00 and will come out of the 2024 City Archives budget.*



2727 N Plaza Dr.  
Rapid City, SD 57702

Phone 605-348-6529 Fax 605-342-1160

**Quote**  
No.: **71730**  
Date: 6/28/2024

Prepared for:

Mike Runge  
Deadwood City Of-Historic Preservation  
108 Sherman Street  
Deadwood, SD 57732 USA

Account No.: 7517  
Phone: (605) 578-2082  
Fax: (605) 578-2084

Qty	Description	UOM	Sell	Total
1	HP ZBook Studio G10 16" Mobile WS - Intel Core i7-13700H, 32GB RAM, 1TB SSD, 3840x2400 Touch Display, Win11 Pro, RTX A1000 w/6GB, WiFi, 1yr Warranty	EA	\$2,503.39	\$2,503.39
1	HP Care Pack Hardware Support - 3 Year - Warranty - 9 x 5 x Next Business Day - On-site - Maintenance - Labor	EA	\$103.00	\$103.00
1	System Installation & Configuration	EA	\$954.00	\$954.00

Your Price:                       
**\$3,560.39**  
Total:                       
**\$3,560.39**

Prices are valid for 30 days from quote date.

**Prepared by:** Chris Bernard, chrisbernard@goldenwest.com

**Date:** 6/28/2024

**Accepted by:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Disclaimer**

Unless otherwise specified, all labor is charged on a time and materials basis. Any additional service charge or travel will apply. Any quoted cable runs assume that there is an available cable pathway; if not, additional charges may apply. Applicable taxes and/or shipping charges may be added to the invoice. Terms: A 30% down payment may be required for sales of \$10,000 or more, with the balance due 15 days from the invoice date. Large, long-term projects are subject to progress billing.

## Michael Runge

---

**From:** Chris Bernard <ChrisBernard@GoldenWest.com>  
**Sent:** Friday, June 28, 2024 2:27 PM  
**To:** Michael Runge  
**Subject:** Mobile workstation: Quote - 71730  
**Attachments:** Quote - 71730 - Deadwood City Of-Historic Preservation.pdf

Mike,

Attached is a quote for that Mobile workstation we discussed today. Per our conversation, I have direct knowledge of the system resources needed to run the Adobe Creative suite as my wife does marketing and advertising for a living and uses it extensively.

Adobe requires a very robust hardware platform to be effectively used. Because it is subscription based, you are at the mercy of Adobe when they come out with updates. It seems that each generation of the software (while amazing when compared with the previous generation) takes more and more resources to effectively operate.

The system I have quoted should give you a very long usable life, even with ever increasing hardware requirements that Adobe Creative Cloud requires.

Please let me know if you have any questions.

Chris Bernard  
Phone: 605.719.3638  
Fax: 605.342.1160  
Email: ChrisBernard@GoldenWest.com  
<http://www.gwtis.com>

Golden West Technologies  
Innovative Solutions. Trusted Partner.



101-4310-425

Wm. Schmidt

~~812 McClellan~~

~~Lead, SD 57754~~

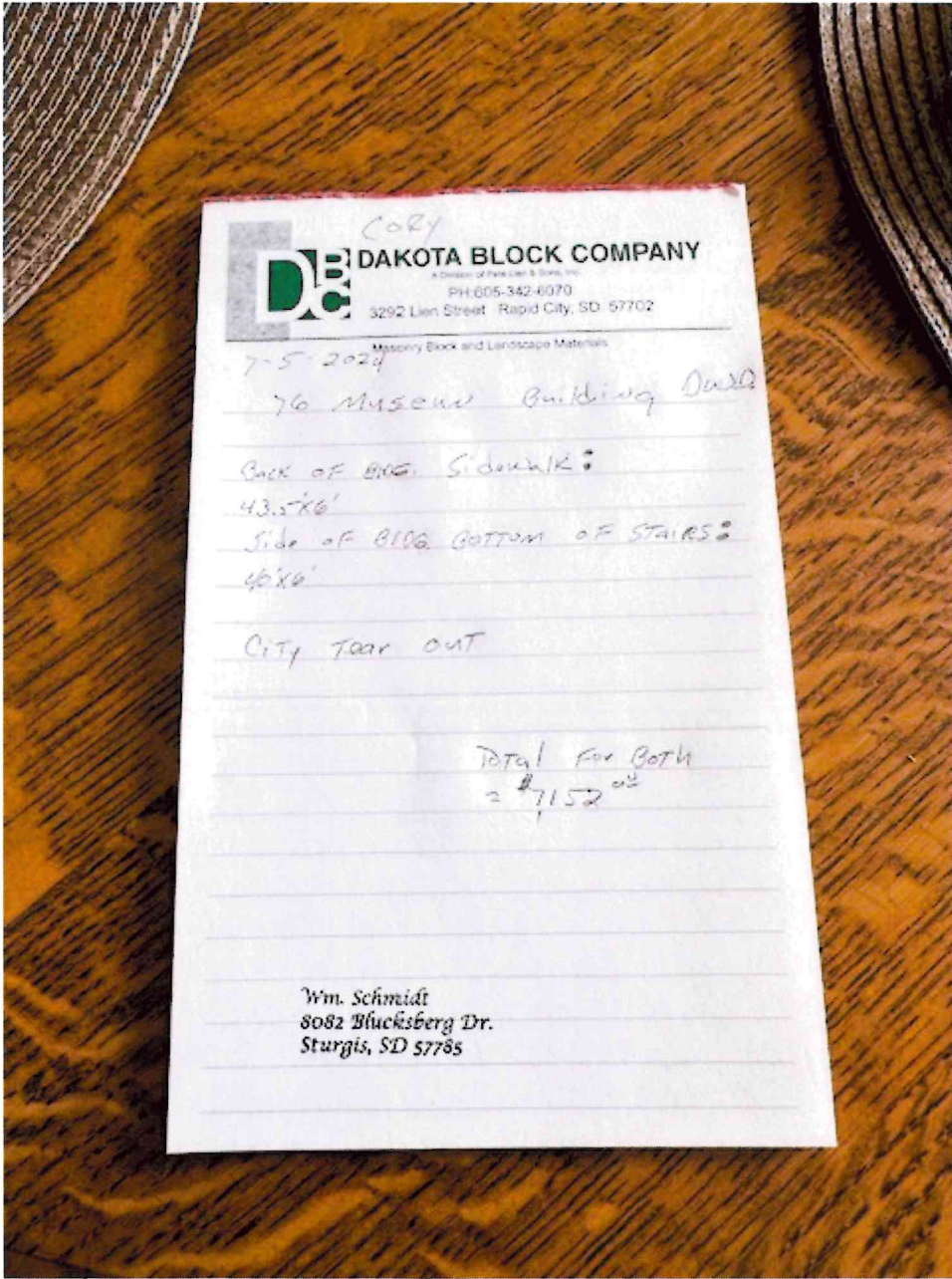
Wm. Schmidt  
8082 Blucksberg Dr.  
Sturgis, SD 57785

CUSTOMER'S ORDER NO.		DEPARTMENT			DATE		
					7-11-2024		
NAME Deadwood City							
ADDRESS 108 Sherman ST.							
CITY, STATE, ZIP Deadwood S. Dak 57732							
SOLD BY		CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT
QUANTITY	DESCRIPTION				PRICE	AMOUNT	
1	At 74 Van Buren ST						
2	Pour + Finish CURB +						
3	GUTTER :						
4	Dowling + Rebar #4						
5	CONCRETE 4000 #						
6							
7	TOTAL DUES				\$	3364.00	
8							
9	THANK YOU						
10							
11							
12							
13	Remit to :						
14	Wm. Schmidt						
15	8082 Blucksberg Dr.						
16	Sturgis, SD 57785						
17							
18							
19							
20							
RECEIVED BY		Wm Schmidt					



Lornie Stalder

Subject: FW: Gg



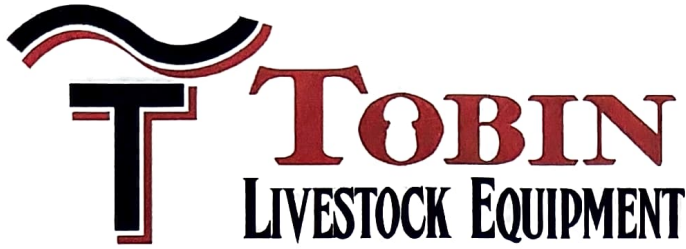
Sent from my iPhone

Lornie Stalder









511 DAKOTA AVE S  
 WESSINGTON SPRINGS, SD 57382  
 TOBINLIVESTOCKEQUIPMENT.COM  
 (605) 545-2897  
 TOBINLIVESTOCKEQUIPMENT@GMAIL.COM

DATE	ESTIMATE #
7/10/2024	108

BILL TO	SHIP TO
Days Of '76 Rodeo City of Deadwood Deadwood, SD	Days Of '76 Rodeo City of Deadwood Deadwood, SD

DESCRIPTION	QTY	RATE	AMOUNT
W-W Heavy Duty Adjustable Load Chute - Portable (F.O.B. Wessington Springs, SD)	1	9,773.00	9,773.00
25% Discount			-2,443.25

Thank you for your business

Subtotal	7,329.75
6.5% Tax	0.00
Total	7,329.75
Balance Due	7,329.75

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 722-0786

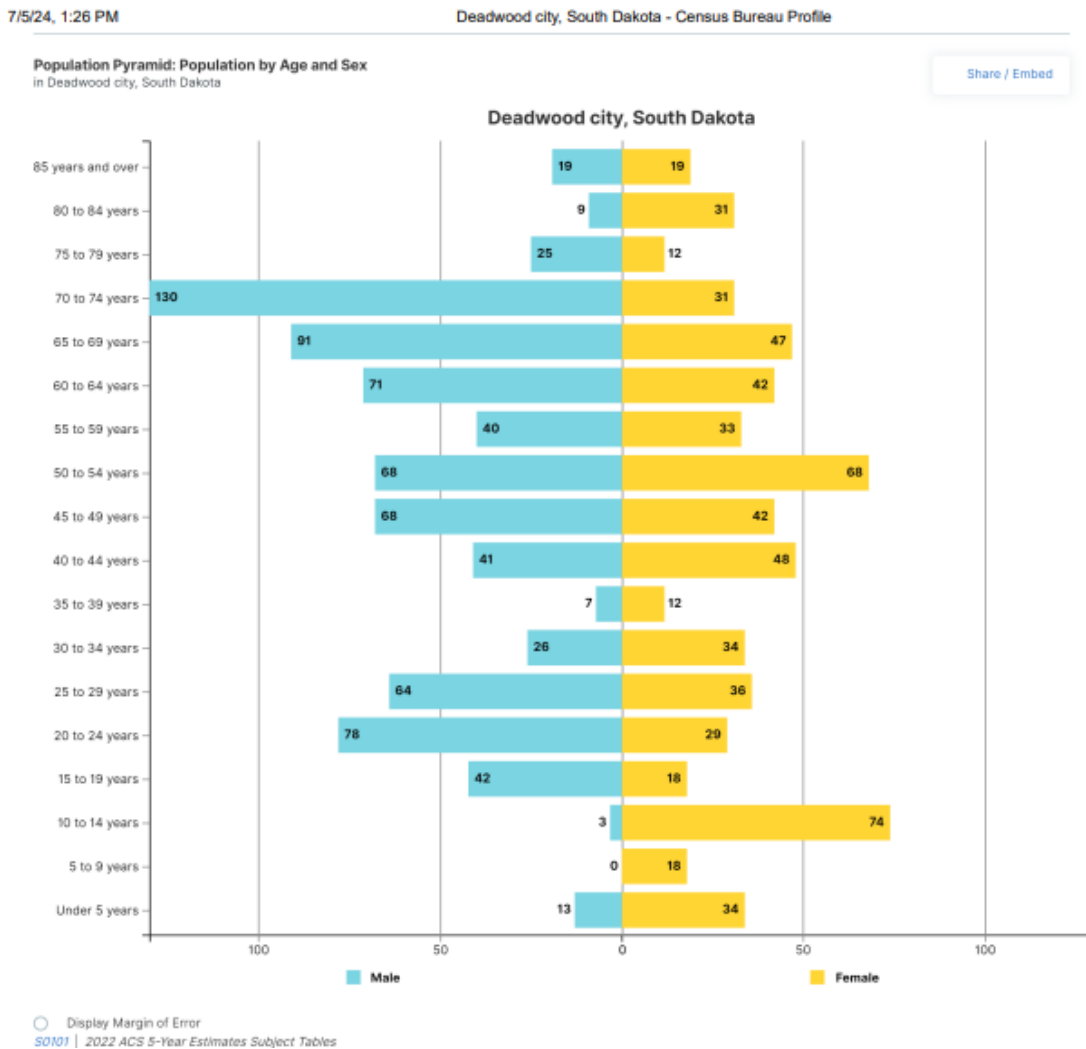


**Kevin Kuchenbecker**  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

## MEMORANDUM

**Date:** July 11, 2024  
**To:** Deadwood Historic Preservation Commission  
**From:** Kevin Kuchenbecker, Historic Preservation Officer  
Bonny Anfinson, Program Coordinator  
**Re:** Deadwood Senior Center Programming and Space Planning Proposal

Deadwood has a significant number of residents who qualify as senior citizens; however, there is currently no senior center for residents to meet, have events or socialize. This has been identified as an unfulfilled need for our community for many years.



The City of Deadwood has explored the possibility of adding an addition to the Deadwood Recreation and Aquatic Center as a multi-use facility which could act as a senior center; however, with the recent success of this facility, space would be minimal for such use.

The Deadwood Historic Preservation staff has had several meetings and site visits to discuss the future of the archival records and building associated with the Deadwood Granite and Marble Works business and location (142 Sherman Street). Bruce and Mary Ann (Akrop) Oberlander currently own the building.

The archival records of the business are packed full of valuable insight and information associated with Deadwood and the Northern Black Hills. Discussion also have centered around the possibility of this structure being a prime location for a Senior Center because of the easy access and parking.

Staff has reached out to Brad Burns of Chamberlin Architects for a site visit to develop a proposal (attached) for the preliminary programming, space layout and opinion of possible cost for a fixed fee of \$3,500.00. Additional discussions, planning and budgeting would need to take place; however, it is essential to explore the potential programming and rehabilitation / construction costs associated with the project.

The Historic Preservation Commission reviewed this request at their July 10, 2024 meeting and recommend approval.

**Recommended Motion:**

Move to hire Brad Burns with Chamberlin Architects to prepare preliminary programming, space layout and opinion of cost for the consideration of a potential Senior Center at 142 Sherman Street for a cost of \$3,500.00 to be paid out of the HP Professional Services line item.

Kevin Kuchenbecker  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, South Dakota 57732



RE: Deadwood Senior Center – Programming and Space Planning Proposal

June 28, 2024

Dear Kevin,

We are pleased to provide this proposal to provide Design Services for the new Deadwood Senior Center located at the Marble Works building on Sherman Street. This proposal is for the first phase of design, which includes some basic programming of the Center, preliminary space planning and an estimated rough order of magnitude of costs for construction. Plans will consist of simple floor plan sketches or drafted plans to determine if this site is an acceptable location for the Senior Center.

Exterior conceptual design is not included.

Building condition and structural assessments beyond what is visually evident are not included.

Up to two trips to Deadwood are included.

#### **Notes from Site Visit 06-20-2024**

---

##### 1. Building Condition:

- a. At some time, a foundation was poured under the exterior walls with the building in place. The construction details of the foundation are unknown.
- b. A concrete slab was poured inside the building. It is not in bad condition, but it is made up of multiple pours and not very level in areas.
- c. The southeast corner of the building's south exterior wall has settled, so the wall is not level. The exterior windows are very much out of square.
- d. There is moisture where the wall is settling, and the wall framing has likely deteriorated.
- e. The likely reason for the settling and moisture is that the concrete patio outside the building is higher than the floor inside the building. The wall is poorly flashed at the base of the wall. It is anticipated that much of the wall will need to be re-framed.
- f. The original plaster inside the building has been replaced with gypsum board on both the walls and the ceiling.
- g. The roof trusses are hand-framed, but in good condition with minimal sagging. Sagging is evident in the southeast area of the building where the wall is settling.
- h. In the attic, wood boards were installed on the bottom chord of the trusses to provide storage. It is likely that storage in the attic will be eliminated, and some additional diagonal bracing will be installed.
- i. Exterior siding is a combination of wood lap and asbestos-cement shingles.
- j. The roofing is asphalt shingles, which appear to be in good condition.
- k. There is a projecting wood-framed sign structure, which is not original to the building.
- l. Windows are single-pane, wood windows, and the paint on the exterior has flaked off, which has contributed to deterioration of wood frames and sills.

- m. As part of an addition project, some demolition of existing building components was performed. This includes the removal of the entire rear end wall and cutting/removal of approximately four trusses on the southeast corner of the building.
- 2. A large wood-framed building addition is attached to the back of the original building. It will be demolished in its entirety, so no description is being provided.
- 3. General program for the new senior center:
  - a. Space(s) where people can gather and socialize.
  - b. Large multipurpose space for special events and games such as poker tournaments, bingo, etc.
  - c. Large kitchen. This would not be a commercial kitchen with equipment requiring a hood, but large enough for multiple people to use and make large meals.
  - d. Accessible restrooms.
  - e. Outdoor patio with seating for outdoor activities such as shuffleboard. An attractive fence will be installed along the sidewalk for security.
  - f. The main entrance will be at the back of the building where the City parking lot is located. There will not be any parking on the building site, but there may be a drop-off zone in the alley.
  - g. The original Marble Works building will be repaired and remodeled to meet the program requirements of the Senior Center. Existing interior walls will be removed. Existing windows will be repaired and/or replaced. Existing east entry doors will be repaired or replaced. These doors will be used primarily for meeting exiting requirements, so they will need to be reversed so they swing outward. Below-grade structural issues will need to be addressed to reduce the potential for settling/heaving floor slab, foundations and walls. Some exploratory excavation may be needed to determine how the foundation was constructed and its condition.

## **COMPENSATION**

For the preliminary programming, space layout and opinion of cost work indicated above, we propose a fixed fee of \$3,500.

Reimbursable expenses shall be billed at cost, which includes mileage for travel and printing expenses, if required.

Thank you for allowing us to present this proposal. This proposal is good for a period of up to 60 days from the date of the proposal. If you find it acceptable, please sign this proposal and send it back to me. If you have any questions, please feel free to contact me.

Sincerely,



Bradley P. Burns, AIA  
Vice President  
Chamberlin Architects, PC



## Terms and Conditions

---

Chamberlin Architects, P.C. (Architect) shall perform the Services outlined in this Agreement for the stated fee arrangement.

**Access to Site:**

Unless otherwise stated, Client shall provide Architect with access to the site for activities necessary for the performance of the Services. Architect will take reasonable precautions to minimize damage due to these activities.

**Standard of Care:**

Architect shall perform its Services for the Project in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time. Architect provides no guarantees or warranties in connection with its Services.

**Dispute Resolution:**

Any claims or disputes arising out of Architect's Services shall be submitted to non-binding mediation. Client and Architect agree to include a similar mediation Agreement with all contractors, subcontractors, sub-consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties. In the event that mediation does not resolve the dispute, for claims less than \$50,000, the parties agree to submit their dispute to binding arbitration before a licensed and practicing professional architect. For claims in excess of \$50,000, the parties agree to submit their dispute to binding arbitration before a three-person panel of licensed and practicing professional architects.

**Billings/Payments:**

Architect shall submit invoices for its Services either upon completion of such Services or on a monthly basis at Architect's option. Payment on all invoices is due within 30 days after the invoice date. If the invoice is not paid within 30 days, Architect may, without waiving any claim or right against Client, and without liability whatsoever to Client, terminate the performance of its Service. Retainers shall be credited on the final invoice.

**Late Payments:**

Accounts that remain unpaid 60 days after the invoice date shall be subject to a monthly service charge of 1.0% on the then unpaid balance. If any portion or all of an account remains unpaid 90 days after billing, Client shall pay all costs of collection, including reasonable attorney's fees.

**Indemnification:**

Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Architect, its officers, directors, employees and sub-consultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by Client's negligent acts in connection with the Project and for the acts of its contractors, subcontractors or consultants or anyone for whom Client is legally liable.

**Certifications:**

**Guarantees and Warranties:** Architect shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence Architect cannot ascertain.

**Fiduciary Responsibility:**

Client agrees that neither Architect nor any of its sub-consultants or subcontractors will offer any fiduciary service to Client and no fiduciary responsibility shall be owed to Client by Architect or any of its sub-consultants or subcontractors, as a consequence of the parties entering into this Agreement.

**Limitation of Liability:**

In recognition of the relative risks and benefits of the Project to both Client and Architect, the risks have been allocated such that Client agrees, to the fullest extent permitted by law, to limit the liability of Architect and Architect's officers, directors, partners, employees, shareholders, owners and sub-consultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of Architect and Architect's officers, directors, partners, employees, shareholders, owners and sub-consultants shall not exceed Architect's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

**Consequential Damages:**

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Architect, nor their respective officers, directors, partners, employees, contractors or sub-consultants, shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation, increased financing costs and any other consequential damages that either party may have incurred from any cause of action, including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both Client and Architect shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this Project.

**Corporate Protection:**

Architect's services for the Project shall not subject Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, Client agrees that as Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Architect, a Colorado corporation, and not against any of the Architect's individual employees, officers or directors.

**Third-Party Beneficiaries:**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Client or Architect. Architect's services under this Agreement are being performed solely for Client's benefit, and no other party or entity shall have any claim against Architect because of this Agreement or the performance or nonperformance of services hereunder. Client and Architect agree to require a similar provision in all contracts with contractors, subcontractors, sub-consultants, vendors and other entities involved in this Project to carry out the intent of this provision.

**Termination of Services:**

This Agreement may be terminated by Client or Architect should the other fail to perform its obligations hereunder. In the event of termination, Client shall pay Architect for all Services rendered to the date of termination and all reimbursable expenses. Architect shall have the absolute right to terminate this Agreement for nonpayment.

**Ownership of Documents:**

All documents, whether printed or electronic, produced by Architect under this Agreement shall remain the property of Architect and may not be used by Client for any endeavor other than the Project without the written consent of Architect. Client may retain copies, including reproducible copies, for information and reference in connection with Client's use and occupancy of the Project.

**Additional Services**

Additional Services are defined as those not included within the Scope of Services, or not included in the Project description. Additional Services include design, drafting, coordination, meetings or other time and expense due to a material change in the project including, but not limited to, size, quality, complexity, Client's schedule or budget for the Cost of the Work, or procurement or delivery method; delays in the schedule caused by Client or Client's consultants and/or contractors; or by other circumstances beyond Architect's control. Upon recognizing the need to perform the Additional Services, Architect shall notify Client with reasonable promptness and explain the facts and circumstances giving rise to the need. If Architect is authorized to provide Additional Services, Architect shall be appropriately compensated for such Additional Services and given additional time to provide those Services. For Additional Services provided by Architect's consultants, compensation shall be at the multiple 1.10 times the amounts billed to Architect for such Additional Services.

**Unauthorized Changes:**

In the event Client, Client's contractors or subcontractors, or anyone for whom Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents prepared by Architect and its sub-consultants without obtaining Architect's prior written consent, Client shall assume full responsibility for the results of such changes. Client waives any claim against Architect and releases Architect from any liability arising directly or indirectly from such changes.

In addition, Client agrees to include in any contracts for construction appropriate language that prohibits Contractor or any subcontractors of any tier from making any changes or modifications to Architect's construction documents without the prior written approval of Architect and that further requires Contractor to indemnify both Architect and Client from any liability or cost arising from such changes made without such proper authorization.

In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Architect, its officers, directors, employees, agents and sub-consultants from and against all damage, liability or cost, including reasonable attorney's fees and defense costs, arising from such changes.

Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Architect, its officers, directors, employees, agents and sub-consultants from and against all damage, liability or cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected to the reuse of the construction documents on any other project or site without the involvement of Architect in the services normally provided on such projects, excepting only those damages, liabilities or costs attributed to the sole negligence or willful misconduct by Architect.

**Jobsite Conditions**

Neither the professional activities of Architect, nor the presence of Architect nor its employees and subconsultants at a construction site, shall relieve General Contractor, Client or any other entity of their obligations, duties and responsibilities. These include, but are not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Neither Architect nor its personnel shall have any authority to exercise any control over any construction contractor or other entity nor their employees in connection with their work or any health or safety precautions. Client agrees that General Contractor is solely responsible for jobsite safety and jobsite conditions. Architect's provision of services shall not relieve others of any responsibility to perform according to their contract or applicable standards or specifications. Architect is not acting as Owner's Representative unless such a service is specifically contracted and paid for separately and apart from the Services contracted herein.

**Design Without Full Construction Phase Services:**

If Architect's Services under this Agreement do not include project observation or review of contractor's performance or other construction phase services, Client shall arrange to provide at its own risk and expense such services. In such event, Client also assumes sole responsibility for interpretation of the construction documents and for construction observation. Client waives all claims against Architect and releases Architect of all liability related to construction phase activities that may be in any way connected thereto.

In addition, Client agrees, to the fullest extent permitted by law to indemnify and hold harmless Architect, its officers, directors, employees and subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of such Services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of Architect.

If Client requests in writing that Architect provide any specific construction phase services and if Architect agrees in writing to provide such Services, then Architect shall be compensated as an Additional Service.

**Offered By:**

\_\_\_\_\_

 06/28/2024

Signature \_\_\_\_\_ Date \_\_\_\_\_

Bradley P. Burns \_\_\_\_\_

Printed Name/Title \_\_\_\_\_

Chamberlin Architects, P.C. \_\_\_\_\_

Firm Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name/Title \_\_\_\_\_

Name of Client \_\_\_\_\_

OFFICE OF  
 PLANNING, ZONING AND  
 HISTORIC PRESERVATION  
 108 Sherman Street  
 Telephone (605) 578-2082  
 Fax (605) 722-0786



**Kevin Kuchenbecker**  
 Planning, Zoning and  
 Historic Preservation Officer  
 Telephone (605) 578-2082  
 kevin@cityofdeadwood.com

## MEMORANDUM

---

**DATE:** July 15, 2024

**TO:** City Commission

**FROM:** Kevin Kuchenbecker, Historic Preservation Officer & Planning and Zoning Administrator

**RE:** Conservation Easements – City of Deadwood Properties

---

### COMMISSION AND STAFF FINDINGS:

Over the past two decades, the City of Deadwood and Deadwood Historic Preservation Commission has acquired a variety of parcels to protect the hillside environs surrounding the Deadwood National Historic Landmark District.

The conservation of eleven (11) properties owned by the City of Deadwood and/or Deadwood Historic Preservation Commission yield significant benefits to the public by protecting the cultural, historical, archaeological, natural, scenic, and recreational values of the properties. Further, the conservation of the properties will keep them free from new structures, alterations or changes that would encroach upon, damage, or destroy the historic properties within and surrounding the Deadwood National Historic Landmark District.

The conservation of the properties, subject to the terms of a Conservation Easement, will yield significant benefits to the public by protecting the properties in perpetuity.

### RECOMMENDED ACTION:

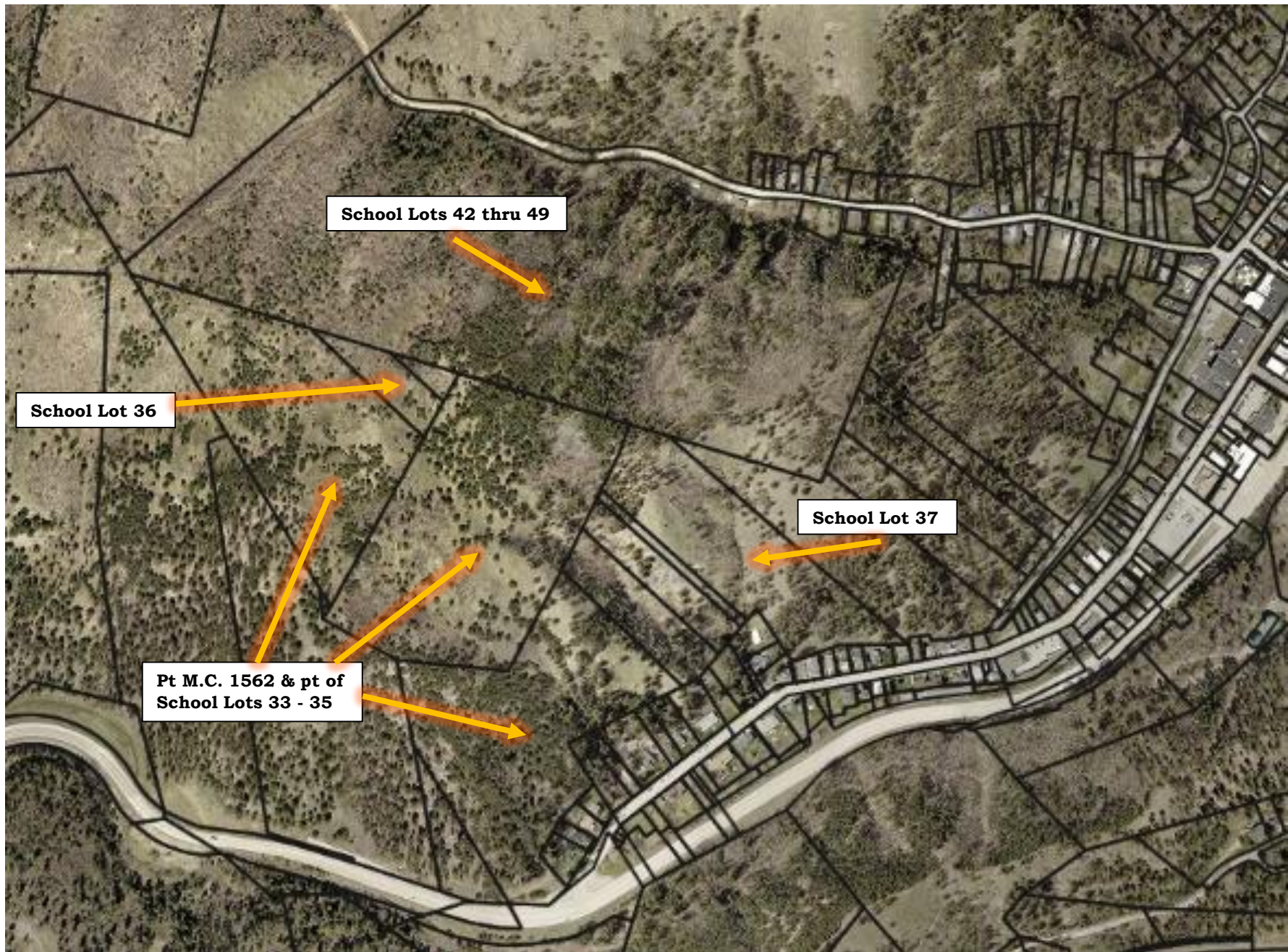
Review and recommend approval for the Conservation Easements on eleven (11) properties owned by the City of Deadwood and/or Deadwood Historic Preservation Commission.



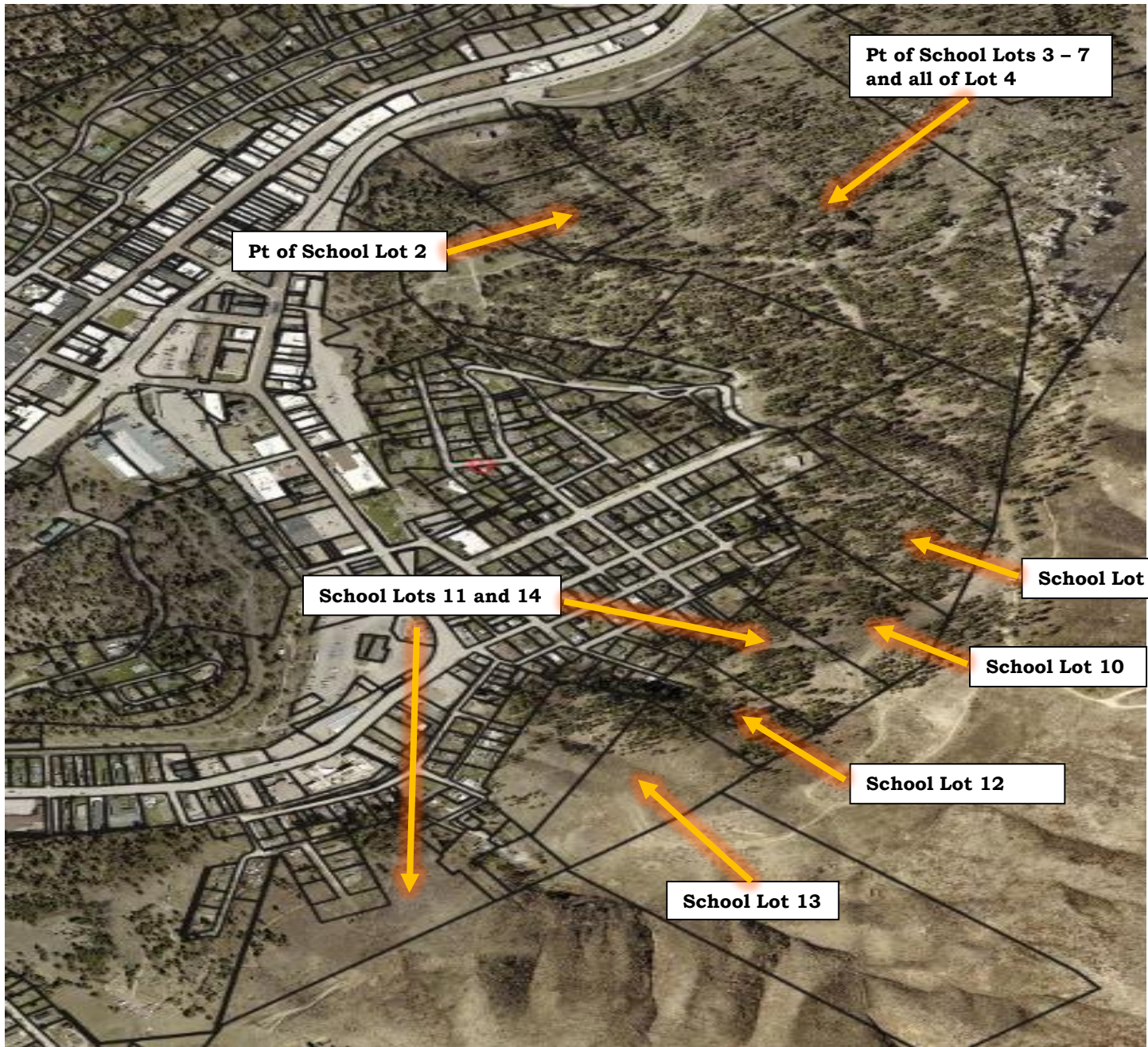
Aerial overview of parcels affected by proposed Conservation Easements.











This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on Lot 2 being a part of School Lot 1, except Railroad Right of Way, all located in the SW ¼ of Section 23, T.5N, R.3E, B.H.M., City of Deadwood, Lawrence County, South Dakota more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;



- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.

6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with

all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative

proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material

aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.



- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without

deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee

may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.
- 13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned PF – Park Forest.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

### CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

#### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 2 in the City of Deadwood, Lawrence County, South Dakota, according to P.L. Rogers Map of the City of Deadwood, except Lot 1 of Fink Flats as shown in Plat Document #81-38 including any part of School Lot 2 which may conflict with Probate Lots 389 and 401; and except Railroad Right of Way as recorded in Book 79 Page 168; and except a portion of School Lot 2 which is owned by Lawrence County as set forth in Treasurer’s Tax Deed filed as Document #82-5891 more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free

from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE**, in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
  - (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.



(d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:

- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.
  - (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.

- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.
- 6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:
- (a) No billboards or commercial signs shall be erected on the Property.
  - (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
  - (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
  - (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
  - (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
  - (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
  - (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
  - (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation

driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.

- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.
- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.

- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents,

attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.

9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the

date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior

notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the



Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

- 11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.
- 11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

### 13. **General Provisions.**

- 13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.
- 13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

- (a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.
- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.

13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.

13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.

13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.

- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.
- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor's title in any respect.
- 13.11 *Termination.* A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned PF – Park Forest.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 3 in the City of Deadwood, Lawrence County, South Dakota, according to P.L. Rogers Map of the City of Deadwood, according To P.L. Rogers Map except Railroad Right of Way in Book 79 Page 165 and except any part in conflict with Probate Lots 91, 302, 303 and 204 in the City of Deadwood. School Lot 4 in the City of Deadwood, Lawrence County, South Dakota, according to P.L. Rogers Map of the City of Deadwood, according to P.L. Rogers Map except Railroad Right of Way as set out in Book 79 Page 165. School Lots 5, 6, and 7 in the City of Deadwood, Lawrence County, South Dakota, according to P.L. Rogers Map of the City of Deadwood more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;

- F. Maintaining the Property's cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;
- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be

terminated and extinguished and may not be used on or transferred to any portion of the Property.

(d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.

2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.

3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.

4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.

5. **Grantor’s Warranties and Representations.**

5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.

5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:



- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor's knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.
  - (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.
- 6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:
- (a) No billboards or commercial signs shall be erected on the Property.
  - (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
  - (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
  - (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
  - (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
  - (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
  - (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
  - (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object

constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:
- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.
- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.
8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**
- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.

- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.
- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its

address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.

- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.
- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental

values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.
- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or

involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.

- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.
- 11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.
- 11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.
12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.
13. **General Provisions.**
- 13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement



that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

- 13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.
- 13.3 *Entire Agreement.*
- (a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.
- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.
- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private

agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.

- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.
- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor's title in any respect.
- 13.11 *Termination.* A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned PF – Park Forest.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 9 in the City of Deadwood, Lawrence County, South Dakota, according to the P.L. Rogers Map of the City of Deadwood, Lawrence County, South Dakota more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.



6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with

all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative

proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material

aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without

deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

(b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee



may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.
- 13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned R1 - Residential.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 10 in the City of Deadwood, Lawrence County, South Dakota according to P.L. Rogers Map more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE**, in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.

6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.



- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with

all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative

proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. Notices and Approvals.

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material

aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without

deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

(b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee

may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.
- 13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer



**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned R1 - Residential.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lots 11 and 14, City of Deadwood, Lawrence County, South Dakota more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.

6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with



all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative

proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material

aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## **11. Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without

deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee

may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.
- 13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer



## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned R1 - Residential.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

### CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

#### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 12 in the City of Deadwood, Lawrence County, South Dakota, according to P.L. Rodgers Map of said City of Deadwood more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.

6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with

all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative



proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material

aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## **11. Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without

deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee

may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.
- 13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned R1 - Residential.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.



This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

### CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

#### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 13 in the City of Deadwood, Lawrence County, South Dakota according to P.L. Rogers Map more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.

6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with

all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative

proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material



aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without

deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

- 11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.
- 11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.
12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.
13. **General Provisions.**
- 13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.
- 13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.
- 13.3 *Entire Agreement.*
- (a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

(b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee

may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.
- 13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned R1 - Residential.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 33 in the City of Deadwood according to P.L. Rogers Map of the City of Deadwood, Lawrence County, South Dakota, excepting therefrom Lots 33A, 33B, 33C, 33D, 33E, and 33F of the subdivision of School Lot 33 as set out in Plat Book 1 Page 277 and excepting therefrom Lot H-2 And H-2 deeded for highway right of way; and excepting therefrom any conflict with M.S. 262 or Probate Lots; -and- School Lots 34, 35 in the City of Deadwood, according to P.L. Rogers Map of the City of Deadwood, Lawrence County, South Dakota, excepting therefrom a portion of School Lot 44 deeded to Black Hills Utilities Company In Book 241 Page 178 more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;



- F. Maintaining the Property's cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;
- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE,** in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be

terminated and extinguished and may not be used on or transferred to any portion of the Property.

(d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.

2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.

3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.

4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.

5. **Grantor’s Warranties and Representations.**

5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.

5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:

- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor's knowledge:
  - (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.
  - (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.
- 6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:
- (a) No billboards or commercial signs shall be erected on the Property.
  - (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
  - (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
  - (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
  - (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
  - (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
  - (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
  - (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object

constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.

7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.

8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.

8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.

8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.

- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.
- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its

address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.

- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.
- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental



values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.
- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or

involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.

- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.
- 11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.
- 11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

### 13. **General Provisions.**

- 13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement

that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

- 13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.
- 13.3 *Entire Agreement.*
- (a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.
- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.
- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private

agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.

- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.
- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor's title in any respect.
- 13.11 *Termination.* A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned PF – Park Forest.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood’s numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community’s historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lot 37 in the City of Deadwood, Lawrence County, South Dakota according to P.L. Rodgers Map more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE**, in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
- (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.
  - (d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.



- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:
- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or

otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.

- (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.
- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.

6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:

- (a) No billboards or commercial signs shall be erected on the Property.
- (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
- (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
- (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
- (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
- (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
- (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
- (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

- 7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.
- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with

all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.

- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents, attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative

proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material

aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without



deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.

13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes

all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

- (b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

- 13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.
- 13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.
- 13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.
- 13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.
- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee

may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.

13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor’s title in any respect.

13.11 *Termination.* A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned PF – Park Forest.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood's numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community's historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

This Instrument Prepared By:  
 City of Deadwood  
 108 Sherman Street  
 Deadwood, SD 57732  
 (605) 578-2082  
 (605) 587-2084

## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** (this “Easement”) is granted this \_\_\_\_ day of \_\_\_\_\_, 2024 by **City of Deadwood**, 108 Sherman Street, Deadwood, SD 57732 (the Grantor) to **the CITY OF DEADWOOD**, City of Deadwood, 108 Sherman Street, Deadwood, SD 57732, a South Dakota municipal government (Grantee):

### WHEREAS:

- A. Grantor is the owner in fee of real property (the “Property”) located on School Lots 42, 43, 44, 45, 46, 47, 48, And 49 In the City of Deadwood, According to P.L. Rogers Map of the City of Deadwood, Lawrence County, South Dakota, excepting therefrom a portion of School Lot 44 deeded to Black Hills Utilities Company in Book 241 Page 178 more particularly described in Exhibit A;
- B. The Property possesses cultural, historical, archaeological, natural, scenic, and recreational values (collectively the “Conservation Values”) of great importance to Grantor, the people of the City of Deadwood and the people of the State of South Dakota; the preservation of which will provide a significant public benefit to the protection of the Deadwood National Historic Landmark District. The Conservation Values, which are more fully described in the Baseline Documentation Report are described in Exhibit B attached hereto and incorporated herein by this reference;
- C. The Property represents open space for the scenic, educational and recreational enjoyment of the general public and will yield a significant public benefit;
- D. Grantor desires to preserve **in perpetuity** the Conservation Values of the Property by granting this Easement and by surrendering the opportunity to engage in economic development of the Property that is inconsistent with such Conservation Values;
- E. The Property has substantial economic value if developed for nonagricultural purposes, but only by potentially harming the Conservation Values and purposes as noted above;
- F. Maintaining the Property’s cultural, historical, archaeological, natural, scenic and recreational values characteristics, and, in particular, maintaining the Property free from new structures, alteration or changes that would encroach upon, damage or destroy the Property and the Deadwood National Historic Landmark District are critical

to the protection of this property. The conservation of the Property, subject to the terms of this easement, will yield significant benefits to the public by protecting the Property;

- G. The parties have mutual desires and goals towards the long-term preservation of Deadwood's National Historic Landmark District, the State and National Register Districts, and the local historic district;
- H. The parties desire to conserve the Property by entering into this Conservation Easement pursuant to SDCL 1-19B-56 to 1-19B-60 of the State of South Dakota and Section 170(h) of the Internal Revenue Code; and
- I. Grantor has received independent legal and financial advice regarding this Conservation Easement to the extent that Grantor has deemed necessary. Grantor freely conveys this Conservation Easement in order to accomplish its conservation purposes.

**NOW, THEREFORE**, in consideration of the foregoing and mutual covenants contained herein the parties agree as follows:

1. **Grant of Easement.**

- 1.1 *Scope and General Purpose.* Upon and subject to the terms and conditions described herein below, Grantor hereby grants, warrants and conveys to Grantee a conservation easement to preserve and protect the Conservation Values of the Property.
- 1.2 *Term.* This Easement shall be **perpetual**.
- 1.3 *Authority Generally.* Grantee shall have the right and power:
  - (a) To enter upon the Property at reasonable times to monitor compliance with and otherwise to enforce the terms of this Easement as more particularly set forth herein; and
  - (b) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in § 10; and
  - (c) To retain as its exclusive right, power and domain, except as expressly reserved to Grantor, all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, it being the intent hereby that such development rights shall, except as expressly reserved, be terminated and extinguished and may not be used on or transferred to any portion of the Property.

(d) Grantee may create pedestrian trails, interpretive sites and conduct archaeological investigations consistent with the conservation values identified herein.

- 1.4 *Access.* For all the purposes described in this Easement, Grantee shall have the right to access the Property from, and to travel by vehicle or foot upon and across, any public or private road or unimproved road or path, public or private, on, to or adjoining the Property. In the event the Property is landlocked, Grantee may have access to the Property on and across any adjoining land of Grantor by the route most convenient to Grantee.
2. **Other Grants by Grantee.** This Easement shall not be interpreted to prohibit or restrict Grantor from participating in any state, federal or local government entity or agency programs designed to promote, preserve or enhance the natural characteristics and potential of the Property and to make any grant of any covenant, restriction, easement or title to the Property for that purpose (a “Public Entity Grant”), provided all of the following conditions are met: (i) any such grant is subject to this Easement; (ii) the grant does not impair, harm or otherwise jeopardize the Conservation Values; and (iii) Grantor shall provide prior notice to Grantee complying with §9.
3. **Grantee’s Acceptance.** In reliance upon Grantor’s warranties and representations as described below, Grantee hereby accepts grant of this Easement and the responsibility of monitoring and enforcing its terms and upholding its Conservation Values forever.
4. **Conservation Baseline.** The document entitled “Baseline Documentation Report”, incorporated by this reference, that the Grantor and Grantee mutually agree, as depicted by photographs, maps, and supporting text, describes the general condition of the Property, including Structures and Improvements, and driveways, as located on the Property as of the date of this Conservation Easement.
5. **Grantor’s Warranties and Representations.**
- 5.1 *Purpose.* Grantor acknowledges that despite the Conservation Values of the Property, certain factors, if they were present, would preclude Grantee from accepting this Easement; and Grantee cannot accept this Easement without affirmative assurances that these factors are not present with respect to the Property. Since Grantor is the party most familiar with the Property, Grantor acknowledges the right of Grantee to rely without inquiry on these assurances in the form of Grantor’s warranties and representations as described below.
- 5.2 *Enumeration.* To induce Grantee to accept this Easement, Grantor warrants and represents as follows:
- (a) Grantor is the sole owner of the Property, free of all liens, claims, interests and encumbrances.
- (b) To the best of Grantor’s knowledge:



- (i) Any handling, transportation, storage, treatment or use of any substance defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Easement has been in compliance with all applicable federal, state, and local laws, regulations, and requirements and has no current adverse effect on any of the Conservation Values.
  - (ii) No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.
  - (iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
  - (iv) Grantor and the Property are in compliance with all federal, state and local laws, regulations, and requirements applicable to the Property and its use.
  - (v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.
- (d) In determining to grant this Easement, Grantor has relied solely on the advice of his own legal, tax and valuation advisors and not on any representative of Grantee.

## 6. **Prohibited and Restricted Uses.**

- 6.1 *Encouraged Practices.* Grantee acknowledges that the Conservation Values are available to be preserved, and Grantor and its successors and assigns are encouraged to conduct all permitted operations and practices in accordance with good management practices addressing soil and water conservation, erosion control, historical, cultural resource and habitat protection.

- 6.2 *Promise to Comply.* Grantor covenants and promises that Grantor will not perform, or knowingly allow others to perform, any act or use on or affecting the Property in conflict with this § 6.
- 6.3 *Specific Terms.* The Property is hereby made subject to the following prohibitions and restrictions:
- (a) No billboards or commercial signs shall be erected on the Property.
  - (b) Grantor may transfer the property in any manner as it sees fit. However, the Property shall not otherwise be subdivided by physical, legal or other process, for purposes of transferring ownership of less than the entirety of the Property.
  - (c) The Property shall not be subject to any mining, extraction or removal of soil, sand, gravel, oil, natural gas, fuel or other mineral substance or exploration for any such purpose, except for movement of material solely for use on the Property in conjunction with and in furtherance of activities permitted by this Easement.
  - (d) Trees on the Property may be cut only for the following: (i) to control insects and disease; (ii) to prevent personal injury or property damage; (iii) to prevent or reduce fire hazard; or (iv) pursuant to a natural resources management plan having the prior approval of Grantee. No plants, flora, fauna or other vegetation may be cut, burned, removed, destroyed, eradicated or harvested except pursuant to a cultural and natural resources management plan approved by Grantee.
  - (e) No unpaved portion of the Property shall be paved, including without limitation covering the soil surface with concrete, asphalt, gravel or other material other than soil and grass.
  - (f) Grantor shall not transfer, encumber, lease, sell or otherwise separate any water rights from the Property.
  - (g) The dumping or accumulation of any kind of trash, garbage, debris, waste, refuse, junk, hazardous chemicals, other unsightly or foreign material, or derelict equipment on the Property is prohibited.
  - (h) No Structures or other Improvements may be built on the Property. For purposes of this Easement, "Structure" includes any building or object constructed, installed or placed upon the ground, whether temporarily or permanent, including without limitation residential units, garages, sheds, studios, cabins, moveable buildings, decks, terraces, and garden features such as arbors and gazebos. For purposes of this Easement, "Improvements" shall mean anything that is constructed or installed upon the ground or a Structure, which is not a Structure and includes without limitation

driveways, roads, parking areas, gardens, ponds, wells, septic tanks, drainageways, utility lines, fences, walls, paths, trails and walkways.

- (i) There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the Easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. Surface drainage into the Property shall comply with all applicable ordinances, regulations and statutes, including those applicable to water quality.
- (j) No new roads not shown on exhibit A or site plans may be cut through the Property. No motorized vehicles shall be used on the Property, except for maintenance work to protect the Conservation Values, and for Grantee's inspections.
- (k) The Property may not be used for or as a part of any commercial venture to provide hunting, fishing, camping, hiking, biking, lodging, drinking or eating or any other commercial recreational activity.
- (l) No above ground installation of new utility systems or extensions of existing systems, including, without limitation, cell towers, telephone relay towers and any other stand-alone tower structures shall be permitted. No water, sewer, power, fuel or communication lines nor related facilities, or any underground installation, will be permitted if the resulting effect would be to drain, alter, or disturb any wetland on the Property unless permitted by the Corps of Engineers or Environmental Protection Agency, as applicable.

6.4 **Acts of God.** Nothing contained in this Easement shall be construed to impose upon Grantor any liability or obligation for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm and earth movement, or from any prudent action by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

7. **Retained Rights.** Except as otherwise expressly provided in this Easement, Grantor shall retain all incidents, rights, powers and discretion inhering in ownership and possession of the Property including without limited to the following:

7.1 *Transfers.* To transfer, lease, mortgage or otherwise encumber the Property, subject and subordinate to this Easement, after compliance with the notice requirements of this Easement in §9.

- 7.2 *Compliance with Public Entity Grants.* Grantor may execute all instruments and documents, provide all assurances and take all actions necessary to comply with all public entity grants, to the extent required thereby and not impairing, harming or otherwise jeopardizing the Conservation Values.
- 7.3 *Weed Control.* Grantor retains the right to use herbicides to control weeds and other undesirable plants, and the right to use other pesticides to control insects and undesirable wildlife. The use of these chemicals shall be consistent with normal forestry and timber practices.

8. **Retained and Assumed Responsibilities, Obligations and Liabilities.**

- 8.1 *Grantee's Status.* Grantor acknowledges that Grantee shall not be considered, and the parties do not intend this Easement to be construed to create or impose upon Grantee any responsibilities, obligations or liability as, an owner, operator, landlord, tenant or manager of the Property. Grantee's obligations for monitoring and inspection shall be solely for the purpose of preserving Conservation Values and not for the prevention or mitigation of any damage, injury or other harm to persons or property. This Easement shall not be deemed to create any right of action against Grantee in favor of any third party.
- 8.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessment, fees and charges of whatever description levied on or assessed against the Property and/or this Easement; provided, however, that all assessed real estate taxes shall be paid on or before the due date set forth in the county tax statement.
- 8.3 *Management.* Grantor shall continue to be solely responsible for the upkeep, maintenance and management of the Property and preservation and protection of the Conservation Values. In the event Grantee places any interpretive sites or hiking or biking trails, Grantee shall be solely responsible for the upkeep maintenance and management of these improvements. Further, Grantee shall be solely responsible for any reclamation costs incurred by any archeological investigations.
- 8.4 *Insurance.* Grantor shall be solely responsible for maintaining all appropriate casualty, property, liability and workers compensation insurance appropriate for their use and occupation of the Property. Grantee shall be named an additional insured on all such insurance policies related to the Property.
- 8.5 *Compliance with Laws.* Grantor shall remain solely responsible for obtaining all applicable governmental permits and approvals for any activity or use permitted by this Easement and to conduct the foregoing in accordance with and in observation of all applicable federal, state and local laws, rules, regulations and requirements.
- 8.6 *Indemnity.* Grantor shall indemnify, protect, defend with counsel acceptable to Grantee and hold Grantee and its directors, officers, employees, agents,

attorneys, volunteers, representatives, successors and assigns (the Indemnified Parties) harmless from and against all claims, actions, administrative proceedings, liabilities, judgments, damages, punitive damages, penalties, fines, costs, remedial action, compliance requirements, enforcement in clean-up actions of any kind, interests or losses, attorney's fees and expenses (including those incurred in enforcing this indemnity), consultant fees and expert fees arising directly or indirectly from or in connection with (i) injury or death of any person, damage to any property or diminution in the value of property resulting from any act, omission, condition or other matter related to or occurring on or about the Property regardless of cause, including injury, death or other harm to any Indemnified Party; (ii) the presence, suspected presence or release of any hazardous substance whether into the air, soil, surface water or ground water of or at the Property; (iii) any violation or alleged violation of any environmental law affecting the Property, whether occurring prior to or during Grantor's ownership of the Property and whether caused or permitted by Grantor or any person other than Grantor; (iv) any claim or defense by Grantor or any third party that any Indemnified Party is liable as an owner or operator of the Property under any environmental law; or (v) any breach of Grantor's warranties, representations or retained responsibilities, obligations or liabilities hereunder. This indemnity shall not apply if it shall be finally determined that any of the foregoing was caused primarily by the gross negligence or willful misconduct of Grantee.

- 8.7 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

## 9. **Notices and Approvals.**

- 9.1 *Methods.* Any notice or communication under this Easement shall be in writing and delivered (by hand, telecopy, telegraph, telex or courier) or deposited in the United States mail (first class, registered or certified), postage fully prepaid and addressed as stated below. Either party may, from time to time, specify as its address for purposes of this Easement any other address upon the giving of ten days notice thereof to the other party in the manner required by this paragraph. This paragraph shall not prevent the giving of written notice in any other manner, but such notice shall be deemed effective only when and as of its actual receipt at the proper address and by the proper addressee.
- 9.2 *Timing and Substance.* Whenever notice to or approval of Grantee is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the

date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

- 9.3 *Approval.* Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. Grantee's approval may be conditioned on reimbursement of costs incurred in, and reasonable fees for, consideration of the request.

## 10. **Grantee's Remedies.**

- 10.1 *Notice; Corrective Action.* If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.
- 10.2 *Injunctive Relief.* If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
- 10.3 *Damages.* In the event that Grantor does not or cannot cure the noticed violation and effectively restore the Property to its pre-violation state, then Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- 10.4 *Emergency Enforcement.* If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property such as to make notice impracticable, Grantee may pursue its remedies under this § 10 without prior

notice to Grantor or without waiting for the period provided for cure to expire. In such instance, Grantee shall provide notice as soon as practicable.

- 10.5 *Scope.* Grantee's rights under this § 10 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in § 10.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this § 10 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 10.6 *Costs.* All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.
- 10.7 *Forbearance.* Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 10.8 *Waiver.* Grantor hereby waives any defense of laches, estoppel, or prescription.

## 11. **Extinguishment and Condemnation.**

- 11.1 *Extinguishment.* If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with § 11.2.
- 11.2 *Valuation.* This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of § 11.1, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the

Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.3 *Condemnation.* If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in § 11.2.

11.4 *Application of Proceeds.* Grantee shall use any proceeds received under the circumstances described in this § 11 in a manner consistent with its conservation purposes, which are exemplified by this grant.

12. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under § 170(h) of the IRC (or any successor provision then applicable), and authorized to acquire and hold conservation easements under state statute (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee shall give written notice to Grantor of an assignment at least thirty (30) days prior to the effective date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

### 13. **General Provisions.**

13.1 *Benefit and Binding Effect.* The Easement created by this instrument shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to Grantor and Grantee shall also apply to, be binding upon and inure to the benefit of their respective agents, heirs, executors, administrators, other legal representatives, transferees, successors and assigns.

13.2 *No Third Party Beneficiaries.* This Easement is intended solely for the benefit of the parties hereto and shall not be enforceable by or create any claim or right of action in favor of any other party.



13.3 *Entire Agreement.*

(a) This Easement represents the entire and integrated agreement between the parties hereto with respect to the subjects described herein and supersedes all prior negotiations, representations or agreements, oral or written. Subject to subparagraph (b), this Easement may be amended or modified only in writing signed by the party to be bound by such amendment or modification and stating that it is intended as an amendment or modification of this Easement. The parties waive their rights to amend or modify this Easement in any other manner.

(b) This Easement may be amended only upon satisfaction of all of the following: (i) written consent of Grantee, which may be granted or withheld in its sole discretion and upon such additional conditions as Grantee may determine to impose in any specific instance; (ii) payment of Grantee's incurred costs and reasonable fees it may impose for the consideration of such amendment; (iii) protection of the Conservation Values are improved or not impaired; (iv) the amendment complies with SDCL 1-19B-56(2)(b) et seq.; and (v) the amendment complies with §170(h) of the Internal Revenue Code. Any such amendment that does not comply with all such requirements shall be void and of no force or effect.

13.4 *Severability.* If any one or more of the provisions of this Easement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of such provision in every other respect and the remaining provisions of this Easement shall not be in any way impaired.

13.5 *Nonwaiver.* Failure of a party to insist upon adherence to any term of this Easement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon adherence to that term or any other term of this Easement.

13.6 *Governing Law.* This Easement shall be governed by and interpreted under the substantive laws of the State of South Dakota without regard to principles of conflicts of law. This Easement shall not be interpreted to negate, supersede or otherwise modify any law, statute, rule, regulation or ordinance (together a Law) imposing additional or more stringent restrictions, including those related to zoning or land use, unless such Law is permitted to be varied by private agreement and the express terms of this agreement have that effect. No approval of this Easement by any governmental authority shall have the effect of negating, superseding or otherwise modifying such Law, or waiving its enforcement, unless expressly so stated as a part of such approval.

13.7 *Headings.* The section headings to this Easement are intended solely for the parties' convenience and shall not affect the interpretation or construction of any portion or provision of this Easement.

- 13.8 *Recordation; Publicity.* Grantee shall record this instrument in timely fashion in the official records of Lawrence County, South Dakota and may re-record it at any time as may be required to preserve its rights in this Easement. Grantee may reasonably publicize the grant of this Easement and use photographs and descriptions of the Property on its web site and other informative materials.
- 13.9 *Liberal Interpretation.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and preservation of the Conservation Values. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 13.10 *No Forfeiture.* Nothing contained herein will result in forfeiture by Grantee or reversion of Grantor's title in any respect.
- 13.11 *Termination.* A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement on the day and year first above-written.

**GRANTOR:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

**GRANTEE:**  
CITY OF DEADWOOD

\_\_\_\_\_  
DAVID R. RUTH JR., MAYOR  
CITY OF DEADWOOD

\_\_\_\_\_  
DATE

STATE OF SOUTH DAKOTA)  
SS)  
COUNTY OF LAWRENCE)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally appeared David R. Ruth Jr., Mayor, City of Deadwood to be the persons who are described in, and who executed the within instrument and acknowledge to me that they executed the same.

ATTEST

\_\_\_\_\_  
Jessica McKeown  
Finance Officer

## EXHIBIT A

### Baseline Documentation Report

The Property is located near the middle of the Deadwood National Historic Landmark District and the state and national register historic districts of Deadwood, Lawrence County, South Dakota. Deadwood was originally settled in a scenic gulch at the confluence of Whitewood and Deadwood Creeks in 1876, due to the discovery of gold in the Black Hills of South Dakota.

The property is a highly visible undeveloped steep hillside with Ponderosa pine forest scattered with scrub oak and spruce. The property is currently zoned PF – Park Forest.

Deadwood is a small town with a historic setting and an aesthetic beauty. The environs afforded Deadwood by its location in the Black Hills offers many environmental benefits for the community. The ponderosa pines and other vegetation on the surrounding hillsides help provide ecosystem services that supply clean air and water to Deadwood, and the rocks and minerals are responsible for the founding and flourishing of Deadwood as a mining town. This property offers these conservation values as well as potential opportunities to experience nature and outdoor recreation such as hiking and biking.

Deadwood’s numerous comprehensive plans have identified several goals which match the conservation values provided by this property. These include but are not limited to the following:

1. The City of Deadwood desires to preserve the natural environment, livability, and sense of community.
2. The City of Deadwood desires to protect the scenic, historic, and small city character while emphasizing and preserving the community’s historic past for future generations.
3. The City of Deadwood desires to promote the diversification of activities that will attract visitors all seasons of the year.
4. The City of Deadwood desires to support the enhancement and protection of our recreational and cultural amenities.
5. The City of Deadwood desires to protect the historic integrity and the natural environment of Deadwood.

**NOTICE OF PUBLIC HEARING  
APPLICATION FOR  
CONVENTION CNETER PACKET (OFF-SALE) LIQUOR LICENSE**

NOTICE IS HEREBY GIVEN that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**1 – Convention Center Package (off sale) Liquor:**

BY Development Inc., Cadillac Jack’s Gaming Resort; 360 Main Street. Legal description on file with the Finance Office.

Any person interested in the approval or rejection of such transfer request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

Dated this 1st day of July, 2024

CITY OF DEADWOOD  
/s/ Jessica McKeown, Finance Officer

Publish BH Pioneer: July 5, 2024

For any public notice that is published one time:

Published once at the total approximate cost of \_\_\_\_\_.

**NOTICE OF PUBLIC HEARING  
APPLICATION FOR  
RETAIL (ON-OFF SALE) MALT BEVERAGE  
AND RETAIL (ON-OFF SALE) WINE LICENSE**

NOTICE IS HEREBY GIVEN that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**1 – Retail (on-off sale) Malt Beverage & SD Farm Wine:**

The Crossings at Spearfish Canyon, dba Dave’s Deli Delights, 61 Sherman Street, Lot 13 and the Southerly 7 feet of Lot 15 of Block 30, Deadwood, Lawrence County, South Dakota.

**1 – Retail (on-off sale) Wine and Cider:**

The Crossings at Spearfish Canyon, dba Dave’s Deli Delights, 61 Sherman Street, Lot 13 and the Southerly 7 feet of Lot 15 of Block 30, Deadwood, Lawrence County, South Dakota.

Any person interested in the approval or rejection of such transfer request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

Dated this 1st day of July, 2024.

CITY OF DEADWOOD

/s/ Jessica McKeown, City Finance Officer

Publish: B.H. Pioneer – July 5, 2024

For any public notice that is published one time:

Published once at the total approximate cost of \_\_\_\_\_.

**NOTICE OF PUBLIC HEARING  
APPLICATION FOR  
RETAIL (ON-OFF SALE) MALT BEVERAGE**

NOTICE IS HEREBY GIVEN that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**1 – Retail (on-off sale) Malt Beverage & SD Farm Wine:**

Boondocks, LLC dba Mr. Goodstores, 622 Main Street, Lots 8 & 10 & S 3’ of alley, adjoining the NW 22’ of Lot 10 Block 15, Deadwood, Lawrence County, South Dakota.

Any person interested in the approval or rejection of such transfer request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

Dated this 1st day of July, 2024.

CITY OF DEADWOOD

/s/ Jessica McKeown, City Finance Officer

Publish: B.H. Pioneer – July 5, 2024

For any public notice that is published one time:

Published once at the total approximate cost of \_\_\_\_\_.

**NOTICE OF PUBLIC HEARING  
STREET CLOSURE  
FOR OUTLAW SHOOTOUT AAU WRESTLING**

NOTICE IS HEREBY GIVEN that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**Street Closure:**

Deadwood Street closure from Main Street to Pioneer Way from 6:00 a.m. on Saturday, July 20 to 1:00 a.m. on Sunday, July 21, 2024.

Any person interested in the approval or rejection of such request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

Dated this 1st day of July, 2024

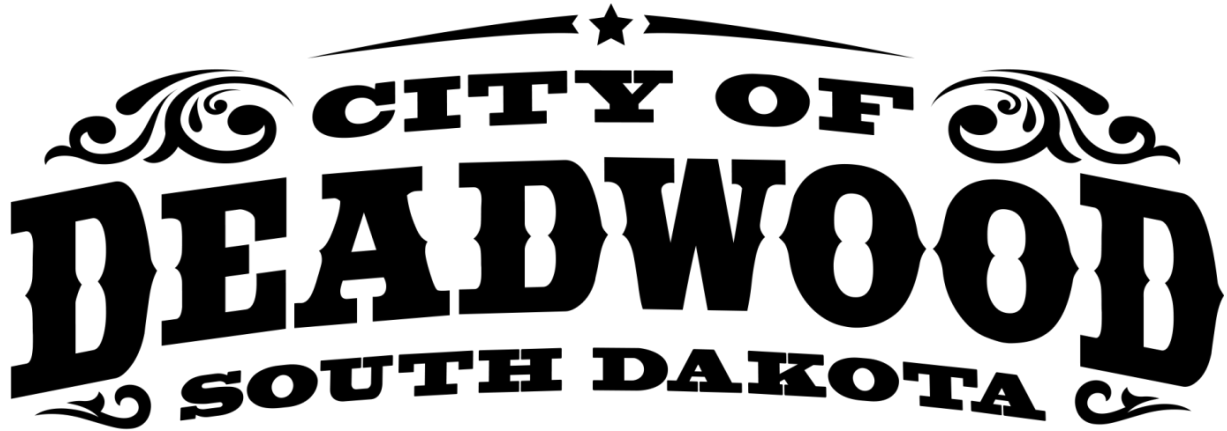
CITY OF DEADWOOD  
/s/ Jessica McKeown, Finance Officer

Publish BH Pioneer: July 5, 2024

For any public notice that is published one time:

Published once at the total approximate cost of \_\_\_\_\_.





# City of Deadwood Special Event Permit Application and Facility Use Agreement for

**Outlaw Square Shootout - July 20, 2024**

---

**Instructions:**

To apply for a Special Event Permit, please read the Special Event Permit Application Instructions and then complete this application. Submit your application, including required attachments, no later than forty-five (45) days before your event. Facility Use Agreements should also be completed at this time (if applicable).

## EVENT INFORMATION

**Type of Event:**

- Run      Walk      Bike Tour      Bike Race      Parade      Concert  
 Street Fair      Triathlon      Other

 Event Title: Outlaw Square Shootout - July 20, 2024

 Event Date(s): July 20, 2024     Total Anticipated Attendance: 450  
 (month, day, year)     (# of Participants 250     # of Spectators 200 )

 Actual Event Hours: (from): 6 pm AM / PM (to): 10 pm AM / PM

 Location / Staging Area: Outlaw Square

 Set up/assembly/construction Date: July 20 Start Time: 6 am AM / PM

Please describe the scope of your setup / assembly work (specific details):

Setting up mats on turf, stage bleachers, bike gates around perimeter, tents on Deadwood St.

 Dismantle Date: July 21 Completion time: Midnight AM / PM

 List any street(s) requiring closure as a result of this event. Include **street name(s)**, **day, date** and **time** of closing and time of re-opening:

Deadwood St closure - July 20 - 6 am until Midnight, July 21

- Any request involving 25 or less motor vehicles will utilize Deadwood Street and will be barricaded at both ends of Deadwood Street.
- Any request involving 25-50 motor vehicles (not including motorcycles) - will park on the north side of Main Street, which will not require street closure.
- Any request involving 50 or more vehicles (which would require an entire street closure From Wall Street to Shine Street and security must be provided at Shine Street and Main Street and Wall Street and Main Street to direct traffic.
- Additional security maybe required at the discretion of the Event Committee.

## APPLICANT AND SPONSORING ORGANIZATION INFORMATION

- Commercial (for profit)      Noncommercial (nonprofit)

 Sponsoring Organization: AAU Wrestling

 Chief Officer of Organization (NAME): Mike Sneesby

 Applicant (NAME): Wade Morris aka Bobby Rock Business Phone: (605) 717-6848

 Address: 703 Main St Deadwood SD 57732  
 (city) (state) (zip code)

 Daytime phone: (605) 717-6848 Evening Phone: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

 Please list any **professional event organizer** or **event service provider** hired by you that is authorized to work on your behalf to produce this event.

Name: Bobby Rock

Address: 703 Main St Deadwood SD 57732

(city) (state) (zip code)

Contact person "on site" day of event or facility use Mike Sneesby Pager/Cell #: 605-645-1664

**(Note:** This person must be in attendance for the duration of the event and immediately available to city officials)

**REQUIRED:** Attach a written communication from the Chief Officer of the organization which authorizes the applicant or professional event organizer to apply for this Special Event Permit on their behalf.

### FEES / PROCEEDS / REPORTING

- | NO                                  | YES                                 |  |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Is your organization a "Tax Exempt, nonprofit" organization? If <b>YES</b> , you must attach a copy of your IRS 501C Tax Exemption Letter to this Special Event Permit application (providing proof and certifying your current tax exempt, nonprofit status). |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Are admission, entry, vendor or participant fees required? If <b>YES</b> , please explain the purpose and provide amount(s):   |

General Admission fee for event. Participant fees charge for entrants - Fundraiser for AAU Wrestling

### OVERALL EVENT DESCRIPTION: ROUTE MAP / SITE DIAGRAM / SANITATION

Please provide a **detailed description** of your proposed event. Include details regarding any components of your event such as use of vehicles, animals, rides or any other pertinent information about the event:

This is an AAU wrestling tournament taking place at Outlaw Square with wrestlers participating from around the region. This is a fundraiser for Deadwood AAU Wrestling Club.

Bleachers will be placed at Outlaw Square for public seating at the event. This is a ticketed event with wrestling club charging admission. Security gates will be placed along Main Street and down the curbside of Deadwood St. on Rocksino side to Pioneer Way and back across Deadwood St. to secure the venue.

Wrestling mats will be placed on the turf of Outlaw Square.

Registration will begin at NOON - wrestling matches will begin at 6 pm.

Requesting Deadwood St closure beginning at 6 am

**OVERALL EVENT / FACILITIES RENTAL DESCRIPTION (CONTINUED)**

**NO**                      **YES**  
                       Does the event involve the sale or use of alcoholic beverages? If **YES**, please provide your liquor liability insurance information to the last page of this application.

                      Will items or services be sold at the event? If **YES**, please describe:  
 Yes, event shirts will be sold by wrestling club

**NO**                      **YES**  
                       Does this event involve a moving route of any kind along streets, sidewalks or highways? If **YES** attach a detailed map of your proposed route, indicating the direction of travel and provide written narrative to explain your route.

                      Does this event involve a fixed venue site? If **YES**, attach a detailed site map showing all streets impacted by the event.

In addition to the route map required above, please attach a diagram showing the overall lay-out and set-up locations for the following items:

- Alcoholic and Non-alcoholic Concession and / or Beer Garden Areas.
- Food Concession and / or Food Preparation Area(s).  
 Please describe how food will be served at the event:  
 wrestling club will be selling pizza slices and can soda

If you intend to cook food in the event area, please specify the method to be used:

GAS     ELECTRIC     CHARCOAL     OTHER (specify):

- First Aid Facilities and Ambulance locations.
- Tables and Chairs.
- Fencing, Barriers and / or Barricades.
- Generator Locations and / or Source of Electricity.
- Canopies or Tent Locations.
- Booths, Exhibits, Displays or Enclosures.
- Scaffolding, Bleachers, Platforms, Stages, Grandstands or Related Structures.
- Vehicles and / or Trailers.
- Trash Containers and Dumpsters.

**(NOTE):** You must properly dispose of waste and garbage throughout the term of your event and immediately upon conclusion of the event, the area must be returned to a clean condition.

Number of trash cans: 8 on site Trash Containers w / lids: N/A

Describe your plan for clean-up and removal of waste and garbage during and after the event or use of facility:  
Wrestling club will clean up Square - Square staff will stack garbage bags as usual for city pick up

- Other Related Event Components not covered above.

## SAFETY / SECURITY / ACCESSIBILITY

Please describe your procedures for both **Crowd Control** and **Internal Security**:

Outlaw Square Staff will handle security

Please describe your Accessibility Plan for access at your event by individuals with disabilities:

Outlaw Square is ADA compatible

**REQUIRED: It is the applicant's responsibility to comply with all City, County, State and Federal Disability Access Requirements applicable to this event.**

**NO**

**YES**

Have you hired any Professional Security organization to handle security arrangements for this event? If **YES**, please list:

Security Organization: \_\_\_\_\_

Security Organization Address: \_\_\_\_\_

\_\_\_\_\_  
(city)

\_\_\_\_\_  
(state)

\_\_\_\_\_  
(zip code)

Security Director (Name): \_\_\_\_\_ Business phone: \_\_\_\_\_



Is this a night event? If **YES**, please state how the event and surrounding area will be illuminated to ensure the safety of the participants and spectators:

Outlaw Square lighting will be used

Please indicate what arrangements you have made for providing **First Aid Staffing** and **Equipment**?

Number N/A Ambulance(s) – How provided?

Number NA Emergency Medical Technicians – How provided?

APPLICANT specifically acknowledges and agrees that it shall be solely responsible for any damage to personal property located in or stored in or upon DEADWOOD's property pursuant to the activity for which approval is being sought and that DEADWOOD shall not be responsible for any damage or loss to or of APPLICANT's property which results from any cause or reason with regard to personal property owned by APPLICANT stored or located on DEADWOOD's property pursuant to approval of the activity for which approval is being sought herein.

Acknowledge acceptance with initial: WM

APPLICANT agrees to hold DEADWOOD harmless and indemnify DEADWOOD from any sums of money which DEADWOOD might have to pay to any person as a result of property damage, personal injury or death resulting from APPLICANT's use of the City property pursuant to approval of the activity for which approval is being sought herein.

Acknowledge acceptance with initial: WM

### PARKING PLAN / SHUTTLE PLAN / MITIGATION OF IMPACT

Please describe your plans to notify all residents, businesses and churches impacted by the event:

Residents and businesses notified through public hearing announcements

Attendees will use Deadwood Public Parking

### ENTERTAINMENT / ATTRACTIONS / RELATED EVENT ACTIVITIES

NO YES

- Are there any **musical entertainment** features related to your event or facilities rental? If **YES**, please state the number of bands and type of music.

Number of Stages: \_\_\_\_\_ Number of Bands: \_\_\_\_\_

Type of Music: \_\_\_\_\_

- Will **sound amplification** be used?  
If **YES**, please indicate: Start Time: 12 pm AM / PM – Finish Time: 10 pm AM / PM
- Will **sound checks** be conducted prior to the event?  
If **YES**, please indicate: Start Time: \_\_\_\_\_ AM / PM – Finish Time: \_\_\_\_\_ AM / PM

Please describe the sound equipment that will be used for your event:

- Will any fireworks, rockets or other pyrotechnics be used? If **YES**, please attach a copy of your permit (issued by the State Fire Marshall's office) to this application.
- Will any signs, banners, decorations or special lighting be used? If **YES**, please describe:

**PROMOTION / ADVERTISING / MARKETING / INTERNET INFORMATION**

NO YES

Will this event be promoted, advertised or marketed in any manner? If **YES**, please describe:  
Wrestling club promoting through flyers, social media

Will there be any live media coverage during your event? If **YES**, please explain:

Applicant acknowledges and agrees to allow the City to publish the Contact Person and media referral telephone numbers on the internet in conjunction with the Calendar of Upcoming Events in the City of Deadwood. If you have a home page and want us to link with our Calendar, please provide the Internet address for your homepage:

Refer all event public inquiries and / or media inquiries for this event to:

NAME: Mike Sneesby PHONE: 605-645-1664

**INSURANCE REQUIREMENTS**

**REQUIRED:** Insurance for your event will be required before final permit approval.

Name of Insurance Company: Hub Insurance Agent's Name: Chris Roberts

Business Phone: \_\_\_\_\_ Policy Number: \_\_\_\_\_ Policy Type: \_\_\_\_\_

Address: \_\_\_\_\_  
(city) (state) (zip code)

For final permit approval, you will need commercial general liability insurance that names "the City of Deadwood, its officers, employees and agents" as an additional insured. Insurance coverage must be maintained for the duration of the event. To determine the amount of insurance coverage necessary, please contact the Finance Office at (605) 578-2600 – Fax # (605) 578-2084.

The City must be named as an "additional insured." Please obtain the required insurance and mail an original insurance certificate to: **City of Deadwood, Finance Office, 102 Sherman Street, Deadwood, SD 57732.**

**LIQUOR LIABILITY INSURANCE**

**REQUIRED:** This insurance coverage is required if you are planning to sell alcoholic beverages at your event or facilities rental.

Name of Insurance Company: \_\_\_\_\_ Agent's Name: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Policy Number: \_\_\_\_\_ Policy Type: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_ (city) \_\_\_\_\_ (state) \_\_\_\_\_ (zip code)

Please obtain the required insurance and mail an original insurance certificate to: **City of Deadwood, Finance Office, 102 Sherman Street, Deadwood, SD 57732.**

**AFFIDAVIT OF APPLICANT**

**ADVANCE CANCELLATION NOTICE REQUIRED:** If this event is cancelled, notify the Deadwood Police Department. Otherwise, City personnel and equipment may be needlessly dispatched.

I certify that the information in the foregoing application is true and correct to the best of my knowledge and belief and that I have read, understand and agree to abide by the rules and regulations governing the proposed Special Event and I understand that this application is made subject to the rules and regulations established by the City Commission of Deadwood. I agree to abide by these rules and further certify that I, on behalf of the organization, am also authorized to commit that organization, and therefore agree to be financially responsible for any cost and fees that may be incurred by or on behalf of the Event to the City of Deadwood.

Name of Applicant (PRINT): Wade Morris aka Bobby Rock Title: Director

\_\_\_\_\_ Date: 6/27/2024

(Signature of Applicant / Sponsoring Organization)

(Signature of Professional Event Organizer or Renter of City-owned Facilities)



**NOTICE OF PUBLIC HEARING  
OPEN CONTAINER, SPECIAL FULL TEMPORARY LIQUOR LICENSE, USE OF  
RODEO GROUNDS FOR DAYS OF 76 – STEER ROPING EVENT**

**NOTICE IS HEREBY GIVEN** that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will be at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**Exception to User Fees Ordinance - Rodeo Grounds**

To grant exception to user fees ordinance to waive user fees on public property for Days of 76 Steer Roping Event at Event Complex on Friday, August 16 through Sunday, August 18, 2024.

**Relaxation of Open Container:**

Friday, August 16 through Monday, August 19, 2024 10:00 a.m. to 2:00 a.m. daily at the Event Complex.

**Special Full Temporary Liquor License:**

Friday, August 16 through Sunday, August 18, 2024 from 10:00 a.m. to 6:00 p.m. daily at the Event Complex.

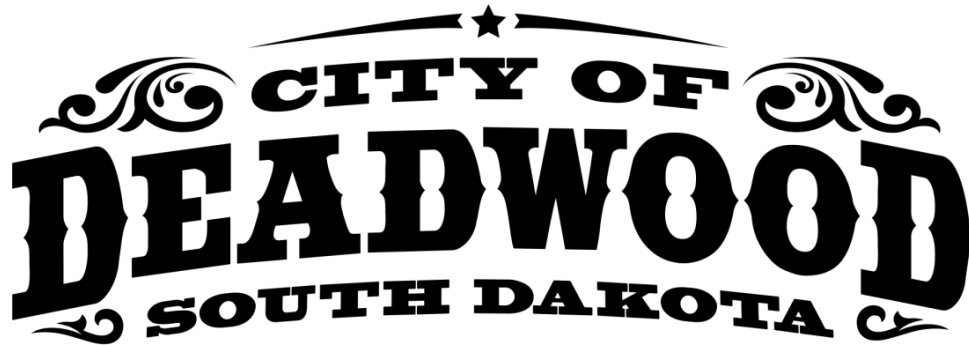
Any person interested in the approval or rejection of such request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

Dated this 1st day of July, 2024.

CITY OF DEADWOOD  
/s/ Jessica McKeown, Finance Officer

Please publish: B.H. Pioneer, July 5, 2024.

For any public notice that is published one time:  
Published once at the total approximate cost of \_\_\_\_\_.



## Event Complex Rental and Use Agreement

Event: Days of '76 Steer Roping

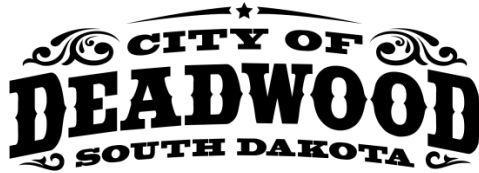
Date: 5/17/24

The City of Deadwood has contracted with the Deadwood Chamber of Commerce and Visitors Bureau for the management and coordination of the Deadwood Event Complex. As an applicant for rental and use of any portion of the Deadwood Event Complex, you are required to contact the Chamber for coordination and assistance in the submittal of this application to the City. The Chamber can be contacted at the following address:

Deadwood Chamber of Commerce  
501 Main Street  
Deadwood, SD 57732  
605-578-1876

# Table of Contents

Topic	Page
Table of Contents .....	2
Rental and Use Agreement	
• Contact information .....	3-4
• Rental & Deposit Fee Schedule .....	5
• Rental Rules and Regulations .....	6-7
Insurance and Liability Overview.....	8
• Facilities Use Agreement Indemnification and Insurance Clause.....	9
• Event Sponsor Release and Indemnification Agreement .....	10-11
• Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment .....	12
• Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment for Minor(s) .....	13
Building Rental Rules .....	14
Event Complex Parking Requirements.....	15
Responsibilities to and of Concessionaire.....	16
Acknowledgement of Deadwood Codified Ordinances	
• Alcohol Policy .....	17
• Liquor Liability Insurance.....	18
• General Business within the Complex .....	19
• Signs and Banners.....	20
City Services and Equipment .....	21-22
References.....	23



Outdoor Event Complex  
Deadwood, SD 57732

### Deadwood Event Complex Rental and Use Agreement

Event Name: Days of '76 Steer Roping

**Contact Information:**

Name of Applicant: Chris Roberts

Business/Organization: Days of '76

Mailing Address: PO Box 391

City, State Zip: Deadwood, SD 57732

Business Phone: \_\_\_\_\_ Cell Phone: 605-920-1116

Email Address: chris.roberts@hubinternational.com

**Dates Event Complex requested:**

Set up Date(s): 8/16/24 Hour(s): \_\_\_\_\_

Event Date(s): Aug 16 - Aug 18 Hour(s): \_\_\_\_\_

Clean-up Date(s): 8/18/24 Hour(s): \_\_\_\_\_

Approximate number of people who will attend: 200

I am applying to use the:  
*(Please check property requested)*

- Ticket Booth
- Main Grandstand Concession
- Crow's Nest
- Main Grandstand Restrooms
- VIP Grandstand
- Baseball Field(s)
- Baseball Field Restrooms
- Arena and Corral Areas
- Venue Seating
- Parking Lots
- Pyrotechnics
- Open Container

Office use Only
Key #
Key #
Key #
Key #
Key #
Key #
Key #

# Deadwood Event Complex Rental and Use Agreement

Event Name: Days of '76 Steer Roping

**Compliance with Deadwood City Ordinances:**

Please review the City of Deadwood Ordinances located on the City of Deadwood website: [www.cityofdeadwood.com](http://www.cityofdeadwood.com) or by calling (605) 578-2082.

- 1) Deadwood Codified Ordinance - Chapter 8.12 – Noise. This ordinance must be adhered to. A violation of this ordinance could be grounds for refusing future rental requests.
- 2) Deadwood Codified Ordinance – Title 5 – Business License. This ordinance may apply.

**Additional contacts:**

Names & contact number of event representatives or sub-contractors (i.e. security, refuge, etc.):

Name: Chris Roberts Title: \_\_\_\_\_

Phone: 605-920-1116 Representing: \_\_\_\_\_

Name: Ted Thompson Title: \_\_\_\_\_

Phone: 605-641-2000 Representing: \_\_\_\_\_

Name: Greg Nelson Title: \_\_\_\_\_

Phone: 605-580-1263 Representing: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Representing: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Representing: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Representing: \_\_\_\_\_

# Deadwood Event Complex Rental and Use Agreement

**Renter Type:**     For-Profit     Private     Non-Profit     Government

(Check One)    *Categories above defined in the Complex Guidelines and Information Sheet*

**Rental Fees:**

	Event Complex Facilities	Parking Lots Only	Baseball Fields Only
<b>Private</b>	\$35 / Hr.	\$25 / Hr.	\$25 / Hr.
	\$300 / Day	\$200 / Day	\$100 / Day
<b>Non-Profit</b>	\$30 / Hr.	\$25 / Hr.	No charge
	\$250 / Day	\$150 / Day	No charge
<b>For Profit</b>	\$75 / Hr.	\$65 / Hr.	\$35 / Hr.
	\$500 / Day	\$500 / Day	\$300 / Day
<b>Government Agencies</b>	No charge	No charge	No charge

**Ticketed Events:**

Events planning on the sale of tickets for attendees may choose to apply a ticket surcharge or facility use fee to each ticket sold. The City of Deadwood has a ticket surcharge, which is set and amended by resolution. **The City Of Deadwood reserves the right to apply the rental fees regardless of the ticket surcharge.**

**Rental Fees subject to change. Fees and deposits waived for Lead Deadwood School Activities.**

**Damage Deposit (Refundable):** \$1250 minimum (no alcohol) or \$2,500 minimum (serving alcohol), **which includes a \$250 non-refundable administrative fee.**

**A cleaning/trash removal fee (Non-Refundable) of \$250.00 PER DAY applies.**

**A Streaming Fee of \$250 per Event applies IF USED.**

**Deposit must be received before application can be approved.**

**City reserves the right to bill for additional fees if damages exceed deposit amount.**

**Key Deposit (One Key or All Keys) (Refundable): \$100.00**

Please read the Use Guidelines for cancellation and reservation policies.

**Fees**

**Request to Waive**

**Refundable Deposits**

Event Complex Facilities    \$ \_\_\_\_\_  
 Baseball Fields    \$ \_\_\_\_\_  
 Parking Lots    \$ \_\_\_\_\_  
 Cleaning/Trash Removal    \$ 500 \_\_\_\_\_  
 Streaming    \$ \_\_\_\_\_  
**Total Fees**    \$ 500 \_\_\_\_\_

**Complex Fees**

Key Deposit    \$ 100 \_\_\_\_\_  
 Damage Deposit    \$ 2500 \_\_\_\_\_  
**Total Deposits**    \$ 2600 \_\_\_\_\_

**Please write separate checks to the City of Deadwood (one check for event and one check for deposits)**

Organization: Days of '76

Name: Chris Roberts    Title: \_\_\_\_\_

Signature:     Date: 5/20/2024

## Acknowledgement of Use Rules and Regulations

---

1. The user assumes responsibility for damage to the rented building(s) and/or area(s) and its amenities during the time of usage, including any time rented for set-up and clean-up. Any property damaged beyond normal wear and tear may be replaced or repaired at the option of City of Deadwood at the user's expense. Liability will be the actual repair or replacement cost and will not be limited to the damage & cleaning deposit.

Initials CR

2. In the event there is damage to the Event Complex or its amenities, City of Deadwood or its appointed agent will notify the undersigned user of the nature and extent of the damage. City of Deadwood will provide an appraisal of the repair or replacement within 30 days of the event. Refund will be discussed at the next event committee meeting, which is the last Thursday of each month. If approved, refund will be issued after the City Commission meeting on the 1<sup>st</sup> or 3<sup>rd</sup> Monday of each month. The user will be billed for any amount that exceeds the damage/cleaning deposit.

Initials CR

3. The user agrees to leave the building and grounds in as good or better condition at the end of the event. Any additional clean-up required after the event will be billed to the user at a rate of \$100.00 per hour per person required to perform the work.

Initials CR

4. A concessionaire is provided for approved special events at the Deadwood Event Complex based on the size of the event and the needs of the event organizer. The concessionaire has a guaranteed dollar amount of two hundred and fifty (\$250.00) dollars per day to the Concessionaire when the concession is requested by the Event Organizer. If the event does not produce the two hundred and fifty (\$250) dollars per day, the event organizer shall be required to cover the shortfall to the Concessionaire. The guaranteed dollar amount shall be paid to the Concessionaire if events are canceled within 72 hours of the event as the concessionaire has at that point prepared for the event taking place. If the event is canceled prior to 72 hours from the event, the Concessionaire shall not be guaranteed the two hundred and fifty (\$250.00) dollars per day.

Initials CR

5. The user is responsible for removal of trash and placing in a dedicated area. All trash must be bagged.

Initials CR

6. I understand and agree: (Please Check Box for your Acknowledgement)

- A person in charge of the event must be in attendance at all times during the event.  
I have read & signed the Alcohol Policy form.
- All guests must remain in the vicinity of the building/area rented and are not allowed to roam the Event Complex or enter other buildings.
- A person in charge must keep the guests off the Football Field unless granted permission to use from the Deadwood City Commission for the event.
- Smoking on City property, including the Event Complex, is prohibited except in designated areas. No person shall smoke or carry any lighted smoking instrument, any cigar, cigarette, pipe, electronic cigarette on any City property.

- If the fire alarms sound, a person in charge will instruct all guests to evacuate to a safe distance outside the building(s) until such time as the Fire Department allows re-entry.
- A person in charge will not allow anyone to interfere with the fire alarm system.
- All vehicles must be parked in designated parking areas. No vehicles are to be parked in the Fire Lanes surrounding the buildings.
- The event representative understands and agrees to immediately pay for any damage or cleaning that exceeds the deposit amount.
- If decorations are used, only painter's tape (low adhesive) can be used on any surfaces. No holes may be made in Event Complex property. Renter must remove all decorations and attachments.
- No alterations can be made to the buildings or grounds without the express permission of City of Deadwood. This includes, but is not limited to, installation of equipment, installation of wiring, cable or other devices or any alteration of the building.
- All exits cannot be blocked during the event.
- Unless otherwise specified by the City Commission, all events must end by 10:00 p.m. Sunday – Thursday and 11:00 p.m. Friday – Saturday. Any event permitted may be required to have security present.
- Noise that may cause inconvenience, annoyance or alarm to others is not permitted. Any event that generates excessive noise must take place between the hours of 7:00 a.m. – 10:00 p.m. only and must comply with Noise Regulations found in the City of Deadwood Codified Ordinance.
- In case of an emergency, such as a fire, dial 911. In the case of a non-emergency, the Deadwood Police Department number is (605) 578-2623 and the Deadwood Fire Department number is (605) 578-1212.
- In case of issues related to the Event Complex during off business hours such as electrical problems, wastewater issues, lighting problems, property related issues, etc. contact Lawrence County Dispatch at (605) 578-2230. The proper authority will be dispatched to remedy the problem. If the problem occurs during business hours (7am-4pm M-F) contact the Deadwood Public Works Department at (605) 578-3082.

Initials CR

7. Outdoor/Animal Events: (Check Acknowledgement)

- Event representatives are responsible for removal of all animal waste, feed, straw and garbage.
- Event representatives are responsible for cleaning restrooms after the event (if used).
- Event representatives are responsible for cleaning all areas utilized including the staging areas, grounds, seating areas, parking areas, and buildings.

Initials CR

\*\*Local Non-Profits may be available to assist. If hiring a contractor, contractor must have proof of insurance and contractor's license.



## Insurance and Liability

---

### Overview:

When city facilities are used by the general public for special events which pose a high risk of injury (e.g. outdoor recreational activities or athletic events), a signed Waiver of Liability, Indemnification, and Medical Release should be required of each participant.

The waiver form should not be significantly modified. It has been written to comply with a 1994 Supreme Court decision, which stated:

- Pre-injury releases are much more likely to be deemed valid and enforceable when they are written on a separate document--that is, not imbedded in an application, rental agreement or sign-up sheet;
- Unless the intention of the parties is expressed in unmistakable language, an exculpatory clause will not be deemed to insulate a party from liability for his own negligent acts...what the law demands is that such provisions be clear and coherent; and
- The more inherently dangerous or risky the recreational activity, the more likely that an anticipatory release will be held valid.

The form can and should be modified to specifically identify the activity involved. In the case of a particularly dangerous activity, the level of risk involved should also be stated. For example, it may not be sufficient to name the activity "motorcycle stunts." The release form should specify the level of difficulty of the stunts.

---

### NOTE:

*High risk activities warrant the use of either a Facilities Use Agreement which requires the user to carry liability coverage, or participant liability waivers, or both. The process of determining when to require insurance of the user and/or when to require signed waivers of participants can be a difficult one. Unfortunately, with the wide variety of activities, events and facilities across City government, there is no way to establish a standard policy to specifically address all cases. **Please contact the City of Deadwood's Safety Director for guidance at 605-578-2082.***

---

The following pages include:

- Facilities Use Agreement Indemnification and Insurance Clause
- Event Sponsor Release and Indemnification Agreement
- Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment
- Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment for Minor(s)

## Facilities Use Agreement Indemnification and Insurance Clause

User agrees to indemnify and hold the City, and its officers, agents and employees harmless from any and all liability, damages, actions, claims, demands, expenses, judgments, fees and costs of whatever kind or character, arising from, by reason of, or in connection with the use of the facilities described herein. It is the intention of the parties that the City, and its officers, agents and employees shall not be liable or in any way responsible for injury, damage, liability, loss or expense resulting to the user and those it brings onto the premises due to accidents, mishaps, misconduct, negligence or injuries, either in person or property.

User expressly assumes full responsibility for any and all damages or injuries which may result to any person or property by reason of or in connection with the use of the facilities pursuant to this agreement and agrees to pay the City for all damages caused to the facilities resulting from user's activities hereunder.

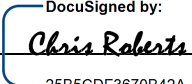
User represents that its activities, pursuant to this agreement, will be supervised by adequately trained personnel, and that user will observe, and cause the participants in the activity to observe, all safety rules for the facility and the activity. User acknowledges that the City has no duty to and will not provide supervision of the activity.

User shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit. Five days prior to commencement of this Agreement, User shall furnish the City with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and provide that such insurance shall not be canceled, except on 30 days' prior written notice to the City. The City Commission reserves the right to require additional commercial general liability insurance necessary to protect the interests of the City.

### ***I have read this Facilities Use Agreement Indemnification and Insurance Clause***

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  \_\_\_\_\_ Date: 5/20/2024

# Event Sponsor – Release and Indemnification Agreement

***This is a Release of Liability Indemnification Agreement. Special Events Holder must read carefully before signing.***

In consideration for being permitted to engage in the following special event activities on Deadwood property (describe in detail):

PRCA Professional Steer Roping

Special Events Holder hereby acknowledges, represents, and agrees as follows:

- A. We understand that the above described activities may be dangerous and do or may involve risks of injury, loss of damage to us and/or third parties. We further acknowledge that such risks may include but not be limited to bodily injury, personal injury, sickness, disease, death, and property loss or damage, arising from the following circumstances, among others:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Initials CR

- B. If required by this paragraph, we agree to require each participant in our special event to execute a RELEASE AND INDEMNIFICATION AGREEMENT for ourselves and for Deadwood, on a form approved by Deadwood. Contact Deadwood Parks, Recreations and Events Director for determination: 605-578-2082.

Participant Release and Indemnification required? YES \_\_\_\_\_ NO X

Initials CR

- C. We agree to procure, keep in force, and pay for special event insurance coverage, from an insurer acceptable to Deadwood, for the duration of the above described activities.

Initials CR

- D. By signing this **RELEASE AND INDEMNIFICATION AGREEMENT**, we hereby expressly assume all such risk of injury, loss or damage to us or any other related third party arising out of or in any way related to the above described activities, whether or not caused by the act, omission, negligence, or other fault of Deadwood, its officers, its employees, or by any other cause.

Initials CR

E. By signing this **RELEASE AND INDEMNIFICATION AGREEMENT**, we further hereby exempt, release and discharge Deadwood, its officers, and its employees, from any and all claims, demands and actions for such injury, loss, or damage arising out of or in any way related to the above described activities, whether or not caused by the act, omission, negligence, or other fault of Deadwood, its officers, its employees, or by any other cause.

Initials CR

F. We Further agree to defend, indemnify, and hold harmless Deadwood, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims and demands, including any third party claim asserted against Deadwood, its officers, employees, insurers, or self-insurance pool, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss of damage, or any other kind of loss of any kind whatsoever, which arises out of or are in any way related to the above described activities. Whether or not caused by our act, omission, negligence, or other fault of Deadwood, its officers, its employees, or by any other cause.

Initials CR

G. By signing this **RELEASE AND INDEMNIFICATION AGREEMENT**, we hereby acknowledge and agree that said agreement extends to all acts, omission, negligence, or other fault of Deadwood, its officers, and/or its employees, and that said Agreement is intended to be as broad and inclusive as permitted by the laws of the State of South Dakota. If any portion thereof is held invalid, it is further agreed that the balance shall, notwithstanding, continue in full legal force and effect.

Initials CR

H. We understand and agree that this **RELEASE AND INDEMNIFICATION AGREEMENT** shall be governed by the laws of the State of South Dakota, and that jurisdiction and venue for any suit of cause of action under this agreement shall lie in the courts of Lawrence County, South Dakota.

Initials CR


I. This **RELEASE AND INDEMNIFICATION AGREEMENT** shall be effective as of the date or dates of the applicable special event, shall continue in full force until our responsibilities hereunder are full discharged, and shall be binding upon us, or successors, representatives, heirs, executors, assigns, and transferees.

Initials CR

**IN WITNESS THEREOF, THIS RELEASE AND INDEMNIFICATION AGREEMENT** is executed by the special events holder, acting by and through the undersigned, who represents that he or she is properly authorized to bind the Special Events Holder hereto.

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  Date: 5/20/2024  
25B5CDF3670B42A...

## Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment

---

By my signature below, I acknowledge that I am aware of, appreciate the character of, and voluntarily assume the risks involved in participating in:

---

---

By my signature below, on behalf of myself, my heirs, next of kin, successors in interest, assigns, personal representatives, and agents, I hereby:

1. Waive any claim or cause of action against and release from liability the City of Deadwood, its officers, employees, and agents for any liability for injuries to my person or property resulting from my participation in the activity listed above;
  2. Agree to indemnify and hold harmless the City of Deadwood, its officers, employees and agents for any claims, causes of action, or liability to any other person arising from my participation in the activity listed above; and
  3. Consent to receive any medical treatment deemed advisable during my participation in the activity listed above.
- 

**I have read this Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment, and fully understand its terms, understand that I have given up substantial rights by signing it, and have signed it freely and voluntarily without any inducement, assurance, or guarantee being made to me and indent my signature to be complete and unconditional release of liability to the greatest extend allowed by law.**

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment

By our signatures below, we acknowledge that we are aware of, appreciate the character of, and voluntarily assume the risks involved in participating:

By our signatures below, on behalf of ourselves, our heirs, next of kin, successors in interest, assigns, personal representatives, and agents, we hereby:

1. Waive any claim or cause of action against and release from liability the City of Deadwood its officers, employees, and agents for any liability for injuries to person or property resulting from participation in the activity listed above;
2. Agree to indemnify and hold harmless the City of Deadwood, its officers, employees, and agents for any claims, causes of action, or liability to any other person arising from participation in the activity listed above;
3. Consent to receive any medical treatment deemed advisable during participation in the activity listed above; and
4. Acknowledge that we are signing below as a minor child and as the parent or legal guardian of the minor child named below.

**I have read this Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment, and fully understand its terms, understand that I have given up substantial rights by signing it, and have signed it freely and voluntarily without any inducement, assurance, or guarantee being made to me and indent my signature to be complete and unconditional release of liability to the greatest extend allowed by law.**

Minor's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Guardian's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# City of Deadwood Building Rental Rules

\*Building Rental Rules only apply if the event is utilizing the grandstands, crow’s nest, or ticket booth.

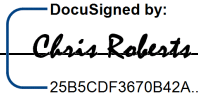
In addition to the rental agreement, the following rules are in force:

- No fog machine or similar device may be used in the buildings as they will set off the smoke alarms.
- No alcohol is allowed on any portion of the Event Complex unless consent has been given by City of Deadwood, and the Alcohol Policy has been signed and approved.
- No nails, staples, or tacks to be put on any City property. Painter’s tape (low adhesive) is allowed.
- All decorations must be flame retardant in accordance with fire code.
- All exit lights must remain uncovered and visible.
- No smoking is allowed on any city property, except designated areas. No person shall smoke or carry any lighted smoking instrument, any cigar, cigarette, pipe, electronic cigarette or other smoking equipment on city property.
- At 10:00 p.m., music must be shut off or turned down so it cannot be heard outside of the Event Complex.
- Propane usage allowed with City of Deadwood’s prior consent.
- Clean up after your event, including but not limited to:
  - Sweep floors & mop spills and wipe down countertops
  - Empty trash in building & dispose of in receptacles outside
  - Take down any and all decorations and remove tape
  - Pick up trash within the entire Event Complex
- Deposit will be returned after the Event Complex is inspected. The deposit is available for return after the inspection and no deficiencies have been reported.

**I have read and understand these rules.**

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  Date: 5/20/2024

# Event Complex Parking Requirements

\*Event Complex Parking rules and requirements apply to all parking used within the Complex, as well as the parking in immediate adjacent properties.

The following rules are in force:

- A parking plan must be submitted as an attachment to this application and include the following information:
  1. Estimated attendance including Staff, spectators, and/or participants
  2. Parking Lots requested and location of proposed attendants
  3. Detailed drawing of proposed traffic flow and access; both pedestrian and vehicular
- Parking assistance required for events that use parking lots for spectators or contestants
- Fire lanes must be kept clear
- Number of Parking Attendants Required:
  - One Attendant located at the gate during the event at all times
  - One additional attendant for every 500 spectators or contestants

\*Example: 1000 people in attendance with contestants, staff, and/or participants would require one gate attendant and two parking attendants
- Failure to provide required attendants will be billed \$100.00 per hour per attendant and City will assign attendants

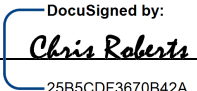
Additional Notes:

1. High visibility vests with Deadwood Event Complex identified on them will be available in the Ticket Booth.
2. Large map of Complex will be on display in Ticket Booth for communication.
3. Absolutely no parking on fields without prior written approval from Parks, Recreations and Events Director.

I have read and understand these rules.

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  Date: 5/20/2024  
25B5CDF3670B42A...



## Responsibilities to and of the Concessionaire

- A. The Concessionaire shall sell quality food and beverages; schedule and provide full maintenance of the concession premises; employ, train, and supervise personnel with appropriate qualifications and experience to assist in such functions; perform or supervise employees in the performance of all other tasks related to the operation, maintenance of the concession premises; and pay for and obtain all licenses and permits necessary for the operation of the concessions granted. The Concessionaire may offer the sale of additional items from the Concession Premises but shall be limited to food and beverage and approved by the Deadwood City Commission.
- B. The Concessionaire shall not sell any alcohol. Alcohol during events held at the Deadwood Event Complex is the sole responsibility of the Event Organizer. The event organizer will have access to the coolers and the outside bars in the facility.
- C. Concessionaire shall at its own expense, at all times, keep the Concession Premises and areas within twenty-five (25) feet thereto in a neat, clean, safe, and sanitary condition; and keep the glass of all windows and doors serving such areas clean and presentable. Concessionaire shall furnish all cleaning supplies and materials needed to operate such areas in the manner prescribed in this agreement; Concessionaire shall provide or perform all necessary janitorial service to adequately maintain the inside and outside of such areas including concession seating. Concessionaire shall be responsible for keeping the areas within twenty-five (25) feet of the perimeter of such areas free of litter and clean of spills resulting from concession operations. The concessionaire shall be obligated to maintain a regular cleaning schedule, as well as a regular extermination service schedule.
- D. Garbage collection within the concession premises and within twenty-five (25) feet of the premises shall be maintained by the Concessionaire and disposed into a dumpster provided by the Event Organizer. The Concessionaire shall **NOT** pay for garbage service during events.
- E. Concessionaire shall be open for business during all special events approved by City Commission where the concession service is requested for the Deadwood Event Complex. If the event organizer is not requesting concession services, the event organizer cannot bring in other vendors to provide food and beverage for the event. The hours of operation of the concession premises shall coincide with the hours of the event scheduled and the hours of operation shall be coordinated between the Concessionaire and the Event Organizer.

A component of the facility use agreement is a guaranteed dollar amount of two hundred and fifty (\$250.00) dollars per day to the Concessionaire when the concession is requested by the Event Organizer. If the event does not produce the two hundred and fifty (\$250) dollars per day, the event organizer shall be required to cover the shortfall to the Concessionaire. The guaranteed dollar amount shall be paid to the Concessionaire if events are canceled within 72 hours of the event as the concessionaire has at that point prepared for the event taking place. If the event is canceled prior to 72 hours from the event, the Concessionaire shall not be guaranteed the two hundred and fifty (\$250.00) dollars per day.

---

**I have read and understand the responsibilities to and of the concessionaire as they relate to the rental agreement and the use of the Deadwood Event Complex.**

Organization: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Alcohol Policy for Facility Rentals

No alcohol is allowed in any building or on the grounds of the City of Deadwood Event Complex including the parking area without the expressed consent of City of Deadwood. To obtain permission to serve alcoholic beverages the City Finance Office MUST be contacted, at (605) 578-2600. Alcoholic beverages are NOT permitted outside of the Event Complex.

The sale of alcoholic beverages may be allowed by acquiring a special alcoholic beverage license from the City of Deadwood per Deadwood Codified Ordinance Chapter 5.04.070 and South Dakota Codified Law Title 35. The process to obtain alcohol licenses may take up to 45 days.

If the undersigned represents a Private Party or For-Profit Organization, the serving of alcoholic beverages is allowed without a special alcoholic beverage license, provided that the event is invitation only, not open to the public, no public advertising and no money is involved (no cash bars and the cost of the alcohol cannot be hidden in an entry fee). Again, alcoholic beverages are NOT permitted outside of the Event Complex. The Finance Office MUST be contacted, at (605) 578-2600 then after review of the request for the serving of alcoholic beverages, the City Commission will approve or disapprove of the request. User will receive notification in written form from the City Finance office of the Commission action.

For those functions where consent has been given the following rules must be followed:

- At any event where alcohol is available, the renter must provide, at their expense, licensed servers unless otherwise approved by the Deadwood City Commission. A copy of the license must be provided to the City of Deadwood prior to the event.
- The renter will also, at their expense, provide adequate licensed certified security to cover the event. A copy of the license and security certification must also be provided to the City of Deadwood prior to the event. The entity can submit an "alternative" to a licensed certified security company, but the "alternative" security will generally entail having a certified police officer on site (off-duty officer is okay). The City will also need to be provided with their name & a copy of their certification, & they need to agree not to drink alcohol themselves.
- Keys for the facilities will not be issued until this information is received and confirmed.
- The renter is solely and wholly responsible to ensure all rules and regulations in regards to the serving of alcohol are followed.

**YES**, we will have alcohol at the contracted event and will abide by the Event Complex Alcohol Policy.

**NO**, we will not have alcohol at the contracted event and agree to police the buildings and parking area to ensure no alcohol is present at the event.

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  \_\_\_\_\_ 5/20/2024

Dates/Times Alcohol will be served: August 16, 17 & 18 - 10am to 6pm daily

Requesting open container at the event complex from 10am to 2am daily

Business name who will be serving: Days of '76

## Liquor Liability Insurance

---

This Insurance Liability Insurance coverage is required if you plan to sell alcoholic beverages at your event or facilities rental.

Name of Insurance Company: Lloyd's of London

Agent's Name: Chris Roberts

Policy Type: CGL

Phone: 605-578-3456

Policy No.: RS100/200PA0528

Address: \_\_\_\_\_

Please obtain the required insurance and mail an original insurance certificate to:

City of Deadwood  
Attn: Finance Office  
102 Sherman Street  
Deadwood, SD 57732.

## General Business within the Event Complex

1. If you will be selling any items (tangible personal property), you and vendors must present a copy of South Dakota Sales Tax Licenses. For information on sales tax licensing contact the following:

South Dakota Department of Revenue Office  
 445 East Capitol Ave  
 Pierre, SD 57501-3185  
 (605) 773-3311

Initials CR

2. If vendors are intended to be used during an approved event at the Deadwood Event Complex, all vendors shall comply with Chapter 5.28 of the Deadwood Codified Ordinances. This Ordinance is included within the guidelines and information packet for reference. In addition, vendors will be limited to designated areas (as indicated on the Event Complex site plan) within the Event Complex unless otherwise approved by the Deadwood City Commission. As the event organizer you understand the laws related to general business and vending within the City limits of Deadwood.

Initials CR

3. As the event organizer and the renter of the Event Complex you shall ensure all sales from any proposed business activities (vendors or the event itself) will not compete with products sold from the concession facility and the concessionaire provided through the City of Deadwood.

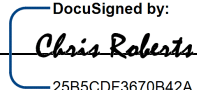
Initials CR

4. The user acknowledges the City of Deadwood has contracted a concessionaire to operate the concession spaces within the Deadwood Event Complex. The responsibilities in regards to the concessionaire and the concession space have been provided and are understood by the event organizer/user of the Event Complex.

Initials CR

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  Date: 5/20/2024

25B5CDF3670B42A...


## Event Complex Sign and Banner Policy

1. Approved events proposed for the Deadwood Event Complex are exempt from Chapter 15.32 Signs of the City of Deadwood Code for all signage and banners located within the event venue. Any proposed banners or signs on the outside of the perimeter fencing will be subject to permitting and the process for approval as part of Deadwood Codified Ordinance Chapter 15.32
2. All signage and banners may be installed at the beginning of the approved rental time and shall be removed within 24 hours of completion of the event. City Staff will remove banners remaining beyond the time for removal at a cost of \$150.00 per hour per person.
3. The City Planner and the Building Inspector shall approve any proposed signage proposed outside of the venue near the primary entrance to the Event Complex prior to the event. Signage proposed for way finding or entrance signage between Highway 14A/85 and Crescent Street may require South Dakota Department of Transportation and/or Deadwood Planning and Zoning Commission approval, proper timing and planning will be required and is very important in regards to approval of signage outside of the Event Complex.
4. The installation of all signage and banners shall be presented to the City of Deadwood prior to installation to prevent damage to City Property and to ensure compliance to the City of Deadwood Codified Ordinance Chapter 15.32. Attach a written plan with quantities, sizes, and locations of all signs and banners.

**I have read the Sign and Banner Policy for the City of Deadwood Event Complex, fully understand its terms, understand that I shall abide by Deadwood Codified Ordinance 15.32, and have signed it freely and voluntarily.**

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  \_\_\_\_\_ Date: 5/20/2024

25B5CDF3670B42A...

## City of Deadwood Equipment and Services

---

### Limitations on the Provision of City Services; Cost and/or Fees

- A. Approval for use of the Deadwood Event Complex does not obligate or require the City to provide services, equipment, or personnel in support of an event.
- B. If the City provides services, equipment, or personnel in support of an event, the City will, charge the event organizer a cost determined by the Department Head in supervision of the services provided. The cost for use of equipment, personnel, and services is determined prior to submittal of application; additional services requested during the event will incur addition costs. ONLY the Department Head in supervision of the services provided shall approve additional services requested! Additional costs if applicable shall be mutually agreed upon prior to service and paid for prior to the service provided.
- C. Prior to submittal of this application, the applicant must meet with the proper City Department Head to determine costs and availability of services requested. A letter from the appropriate City Department stating the total costs and services available shall be submitted with the application along with payment for the services with the entire application.
- D. If the City is a co-sponsor of an event, city services, equipment, or personnel may be provided to support the event without charge.

### Equipment and Services Provided (Included in Rental Fees)

#### Public Works Department

- Electricity (existing facilities only – additional power is the responsibility of the renter with approval from the Public Works Director)
- Water and Sewer (existing facilities only – additional services are the responsibility of the renter with approval from the Public Works Director)
- Yard Hydrants (water sources) – The City has several yard hydrants available upon request throughout the property; however, hoses, stock tanks, etc. are the responsibility of the event organizer.
- Limited grading, scarifying, compacting the Arena Surface Prior to the Set-up of the Event
- Installation and tear down of traffic control devices and signs the City has available. The traffic control devices and signs are limited to the inventory of the City of Deadwood and what have been used during events held in the event complex in the past.
- Providing for and setting up of fencing at the SDDOT shop yard for overflow parking if requested. The agreement between the SDDOT and the City requires this property be set-up a particular way, utilized specifically, and restored to the condition it was in prior to the use.
- Fence/Corral Panels – The City may provide fence and/or corral panels owned by the City of Deadwood if they are available. The installation of all fence panels as part of an event will be the responsibility of the renter.
- Cleaning of the Grandstands is the responsibility of the event organizer. In addition, if the existing facilities are not adequate for the projected number of patrons' additional facilities are the responsibility of the renter.

Police Department

- Parade Escort for parades directly related to the event
- Traffic Control related to exiting of patrons at the intersection of Seventy-Six Drive and Highway 85/14A. This service shall be determined in advance if needed.

**Equipment and Services upon Request and Availability with Cost (NOT Included in Rental Fees)**Public Works Department

- Fire hydrants will NOT be available for event usage at any time and shall be kept clear for access in case of emergency.
- Additional services not specifically listed below shall be considered, evaluated, and determined if the City will provide the service. If the service can be provided a cost, if required, will be determined in writing prior to the event.

## Arena prep work including:

- Additional Grading, scarifying, compacting the Arena Surface after set-up of the event
- Pumping of water from the Arena Area
- Additional Dirt or Sand for the Arena
- Fence panel installation and tear down
- Snow removal from or hauling snow into event complex
- Water – Bulk amounts of water used for dust control, snowmaking, etc.

## General Event Complex Services:

- Garbage pick-up
- Costs for emptying City dumpsters if utilized
- Clean up of animal droppings during events

## Equipment/Machinery with a City Employee Operator ONLY:

- Motor grader
- Loader
- Dump Truck
- Skid Steer / Bobcat
- Sweeper (Large or Small)
- Bucket Truck
- Water Tank Truck

Police Department

- Traffic Control – Any traffic control assistance beyond what is provided with the use of the facility
- Security Services – Security services shall be a request to the Chief of Police and the availability of personnel may prohibit this service from being provided.

Fire Department

- On-site Staff and/or equipment: If the approved event requires Fire Department staff and/or equipment to be on-site due to the nature of the event.

### Renter Reference Sheet

Renter/Organization Name: Days of '76

**Requirements (If first time renter):**

- 3 References from a previous event location in which you hosted an event
- References cannot be a part of your organization or event
- Each Reference must have complete information

The City of Deadwood may contact references to evaluate your performance as a renter.

1) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

City/State: \_\_\_\_\_ Event Name: \_\_\_\_\_

Event Location: \_\_\_\_\_ Email: \_\_\_\_\_

2) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

City/State: \_\_\_\_\_ Event Name: \_\_\_\_\_

Event Location: \_\_\_\_\_ Email: \_\_\_\_\_

3) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

City/State: \_\_\_\_\_ Event Name: \_\_\_\_\_

Event Location: \_\_\_\_\_ Email: \_\_\_\_\_

I have read the foregoing rental agreement and all of the attachments as well as the use guidelines and information attached hereto and incorporated herein by this reference. I fully understand my rights and obligations in connection with use of the Deadwood Event Complex.

**RESERVATIONS WILL NOT BE CONFIRMED UNTIL THE SIGNED FACILITY USE AGREEMENT AND FULL PAYMENT IS RECEIVED.**

Organization: Days of '76

Name: Chris Roberts Title: \_\_\_\_\_

Signature:  Date: 5/20/2024

Daytime Phone Number: 25B5CDF3670B42A... \_\_\_\_\_

Date of your Event(s): \_\_\_\_\_ Group/Event Name: \_\_\_\_\_



**NOTICE OF PUBLIC HEARING  
STREET CLOSURE  
FOR DEADWOOD REDEMPTION DAY**

NOTICE IS HEREBY GIVEN that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**Street Closure:**

Deadwood Street closure from Main Street to Pioneer Way from 8:00 a.m. on Saturday, August 17 to 1:00 a.m. on Sunday, August 18, 2024. Deadwood Street will reopen for the Deadwood Alive performance at 2:00 p.m. and close at 2:30 p.m.

Any person interested in the approval or rejection of such request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

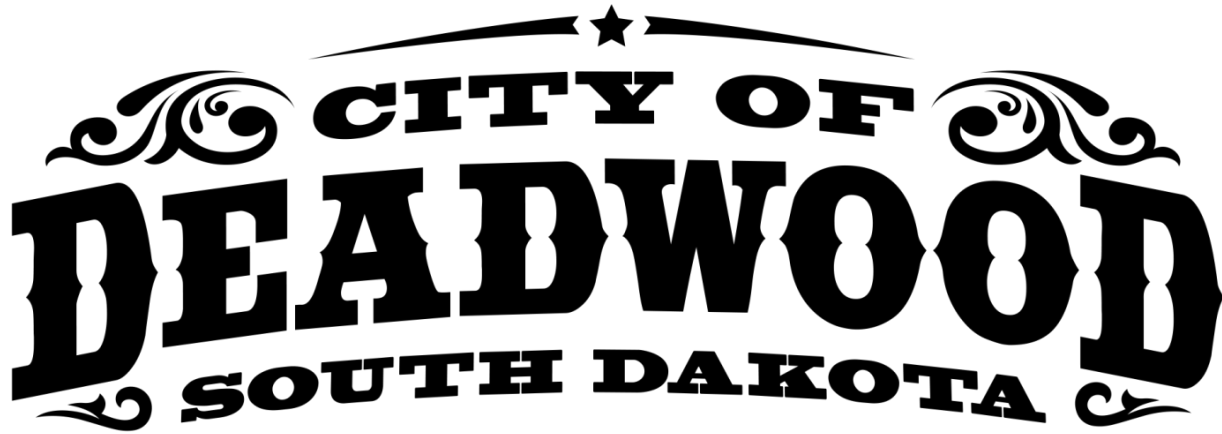
Dated this 1st day of July, 2024.

CITY OF DEADWOOD  
/s/ Jessica McKeown, Finance Officer

Publish BH Pioneer: July 5, 2024

For any public notice that is published one time:

Published once at the total approximate cost of \_\_\_\_\_.



# City of Deadwood Special Event Permit Application and Facility Use Agreement for

August 17 Preacher Smith - Deadwood Redemption - Jordan Feliz

---

**Instructions:**

To apply for a Special Event Permit, please read the Special Event Permit Application Instructions and then complete this application. Submit your application, including required attachments, no later than forty-five (45) days before your event. Facility Use Agreements should also be completed at this time (if applicable).

Adopted June 1, 2023

### EVENT INFORMATION

<input type="checkbox"/> Run	<input type="checkbox"/> Walk	<input type="checkbox"/> Bike Tour	<input type="checkbox"/> Bike Race	<input type="checkbox"/> Parade	<input checked="" type="checkbox"/> Concert
<input type="checkbox"/> Street Fair	<input type="checkbox"/> Triathlon	<input type="checkbox"/> Other			

Event Title: Preacher Smiths Deadwood Redemption Family & Faith Day

Event Date(s): August 17, 2024 Total Anticipated Attendance: 2500  
(month, day, year)

(# of Participants 50 # of Spectators 2450)

Actual Event Hours: (from: 6:30 pm AM / PM (to): 10 pm AM / PM

Location / Staging Area: Outlaw Square

Set up/assembly/construction August 17 Start time: 8 am AM / PM

Please describe the scope of your setup / assembly work (specific details):  
Unloading of Production equipment - moving of screen - unloading of band equipment

Dismantle Date: August 17/18 Completion time: 12 am AM / PM

List any street(s) requiring closure as a result of this event. Include **street name(s), day, date** and **time** of closing and time of re-opening: Deadwood St closure - August 17 - 8 am closure - reopening by 12 a August 18 - will reopen for 2 pm gun fight then close again for duration of event/load ou

- Any request involving 25 or less motor vehicles will utilize Deadwood Street and will be barricaded at both ends of Deadwood Street.
- Any request involving 25-50 motor vehicles (not including motorcycles) - will park on the north side of Main Street, which will not require street closure.
- Any request involving 50 or more vehicles (which would require an entire street closure From Wall Street to Shine Street and security must be provided at Shine Street and Main Street and Wall Street and Main Street to direct traffic.
- Additional security maybe required at the discretion of the Event Committee.

### OPEN CONTAINER

<https://www.cityofdeadwood.com/planning/page/special-event-open-container-information-and-maps>

Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_  
 Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_  
 Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_  
 Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_  
 Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_

**APPLICANT AND SPONSORING ORGANIZATION INFORMATION**

Commercial (for profit)

Noncommercial (nonprofit)

Sponsoring Organization: Outlaw Square

Chief Officer of Organization (NAME): Wade Morris aka Bobby Rock

Applicant (NAME): Same Business Phone: (605 ) 717-6848

Address: \_\_\_\_\_  
(city) (state) (zip code)

Daytime phone: (605 ) 717-6848 Evening Phone: (605 ) 641-9162 Fax #: ( )

Please list any **professional event organizer** or **event service provider** hired by you that is authorized to work on your behalf to produce this event.

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
(city) (state) (zip code)

Contact person "on site" day of event or facility use Bobby Rock Pager/Cell #: 605-641-9162

**(Note:** This person must be in attendance for the duration of the event and immediately available to city officials)

**REQUIRED:** Attach a written communication from the Chief Officer of the organization which authorizes the applicant or professional event organizer to apply for this Special Event Permit on their behalf.

**FEES / PROCEEDS / REPORTING**

NO YES

Is your organization a "Tax Exempt, nonprofit" organization? If **YES**, you must attach a copy of your IRS 501C Tax Exemption Letter to this Special Event Permit application (providing proof and certifying your current tax exempt, nonprofit status).

Are admission, entry, vendor or participant fees required? If **YES**, please explain the purpose and provide amount(s): NO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OVERALL EVENT DESCRIPTION:  
ROUTE MAP/ SITE DIAGRAM/ SANITATION**

Please provide a **detailed description** of your proposed event. Include details regarding any components of your event such as use of vehicles, animals, rides or any other pertinent information about the event:

Preacher Smiths' Deadwood Redemption Family & Faith Day is our re-occurring annual Christian Concert - this year featuring Jordan Feliz.

Event begins at 6:30 with opening band followed by headliner at 8 pm

Requesting Deadwood St. closure from main street to pioneer way. Initial closing at 8a for load in and set up - will reopen for 2 pm Deadwood Alive Gunfight in front of Franklin Hotel - following Gunfight, Deadwood St will re-close until end of the event.

Max LED Screen will be set up on Deadwood St. along with Sergeant Poppers and possible vendor.

Deadwood St. will reopen no later that 12 am on August 18

**OVERALL EVENT / FACILITIES RENTAL DESCRIPTION (CONTINUED)**

- NO YES  
  Does the event involve the sale or use of alcoholic beverages? If **YES**, please provide your liquor liability insurance information to the last page of this application.
- Will Items or services be sold at the event? If **YES**, please describe: Artist merchandise
- Does this event involve a moving route of any kind along streets, sidewalks, or highways? If **YES**, attach a detailed map of your proposed route, indicating the direction of travel and provide written narrative to explain your route.
- Does this event involve a fixed venue site? If **YES**, attach a detailed site map showing all street impacted by the event.

In addition to the route map required above, please attach a diagram showing the overall lay-out and set-up locations for the following items:

- Alcoholic and Non-alcoholic Concession and / or Beer Garden Areas.

- Food Concession and / or Food Preparation Area(s).

Please describe how food will be served at the event: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If you intend to cook food in the event area, please specify the method to be used:

GAS       ELECTRIC       CHARCOAL       OTHER(SPECIFY): \_\_\_\_\_

- First Aid Facilities and Ambulance locations.
- Tables and Chairs.
- Fencing, Barriers and / or Barricades.
- Generator Locations and / or Source of Electricity.
- Canopies or Tent Locations.
- Booths, Exhibits, Displays or Enclosures.
- Scaffolding, Bleachers, Platforms, Stages, Grandstands or Related Structures.
- Vehicles and / or Trailers.
- Trash Containers and Dumpsters.

(NOTE): You must properly dispose of waste and garbage throughout the term of your event and immediately upon conclusion of the event, the area must be returned to a clean condition.

Number of trash cans: 8      Trash Containers w / lids: N/A

Describe your plan for clean-up and removal of waste and garbage during and after the event or use of facility: Outlaw Square staff will handle clean up  
 \_\_\_\_\_  
 \_\_\_\_\_

Other Related Event Components not covered above. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SAFETY / SECURITY / ACCESSIBILITY**

Please describe your procedures for both **Crowd Control** and **Internal Security**: \_\_\_\_\_  
Badlands Security and Outlaw Square staff

Please describe your Accessibility Plan for access at your event by individuals with disabilities: \_\_\_\_\_  
Outlaw Square is ADA compliant

**REQUIRED: It is the applicant’s responsibility to comply with all City, County, State and Federal Disability Access Requirements applicable to this event.**

NO YES  
  Have you hired any Professional Security organization to handle security arrangements for this event? If **YES**, please list:

Security Organization: Badlands Security

Security Organization Address: 11089 Snoma Road Belle Fourche, SD  
(city) (state) (zip code)

Security Director (Name): Fritz Carlson Business phone: 605-210-1780

NO YES  
  Is this a night event? If **YES**, please state how the event and surrounding area will be illuminated to ensure the safety of the participants and spectators: \_\_\_\_\_

Outlaw Square lighting in use

Please indicate what arrangements you have made for providing **First Aid Staffing and Equipment**?

Number 1 Ambulance(s) – How provided? Monument Health

Number 2 Emergency Medical Technicians – How provided? Monument Health

APPLICANT specifically acknowledges and agrees that it shall be solely responsible for any damage to personal property located in or stored in or upon DEADWOOD’s property pursuant to the activity for which approval is being sought and that DEADWOOD shall not be responsible for any damage or loss to or of APPLICANT’s property which results from any cause or reason with regard to personal property owned by APPLICANT stored or located on DEADWOOD’s property pursuant to approval of the activity for which approval is being sought herein.

Acknowledge acceptance with initial: WM

APPLICANT agrees to hold DEADWOOD harmless and indemnify DEADWOOD from any sums of money which DEADWOOD might have to pay to any person as a result of property damage, personal injury or death resulting from APPLICANT’s use of the City property pursuant to approval of the activity for which approval is being sought herein.

Acknowledge acceptance with initial: WM

Adopted June 1, 2023

**PARKING PLAN / SHUTTLE PLAN / MITIGATION OF IMPACT**

Please describe your plans to notify all residents, businesses and churches impacted by the event: \_\_\_\_\_  
Residents and businesses notified through city public hearing notices

**ENTERTAINMENT / ATTRACTIONS / RELATED EVENT ACTIVITIES**

NO YES  
  Are there any **musical entertainment** features related to your event or facilities rental? If **YES**, please state the number of bands and type of music.

Number of Stages: 1 Number of Bands: 2

Type of Music: christian

Will **sound amplification** be used?  
If **YES**, please indicate: Start Time: 6:30 p AM / PM – Finish Time: 10 p AM / PM

Will **sound check** be conducted prior to the event?  
If **YES**, please indicate: Start Time: 4 p AM / PM – Finish Time: 5 p AM / PM

Please describe the sound equipment that will be used for your event: \_\_\_\_\_  
Powerhouse Sound will handle our sound production

Will any fireworks, rockets or other pyrotechnics be used? If **YES**, please attach a copy of your permit (issued by the State Fire Marshall’s office) to this application.

Are any signs, banners decorations or special lighting be used? If **YES**, please describe: \_\_\_\_\_

**PROMOTION / ADVERTISING / MARKETING / INTERNET INFORMATION**

NO YES  
  Will this event be promoted, advertised or marketed in any manner? If **YES**, please describe:  
Radio broadcast, social media, digital media, posters

NO YES  
  Will there be any live media coverage during your event? If **YES**, please explain:  
\_\_\_\_\_  
\_\_\_\_\_

Refer all event public inquiries and / or media inquiries for this event to:  
NAME: Bobby Rock PHONE: 605-717-6848

Adopted June 1, 2023



**INSURANCE REQUIREMENTS/LIQUOR LIABILITY**

**REQUIRED:** Insurance for your event will be required before final permit approval.

Name of Insurance Company: Hub International/Lloyds of London

Agent’s Name: Chris Roberts

Business Phone: (\_\_\_\_)\_\_\_\_\_ Policy Number: \_\_\_\_\_ Policy Type: \_\_\_\_\_

Address: \_\_\_\_\_  
(city) (state) (zip code)

For final permit approval, you will need commercial general liability insurance that names “the City of Deadwood, its officers, employees and agents” as an additional insured. Insurance coverage must be maintained for the duration of the event. To determine the amount of insurance coverage necessary, please contact the Finance Office at (605) 578-2600 – Fax # (605) 578-2084.

The City must be named as an “additional insured.” Please obtain the required insurance and mail an original insurance certificate to: City of Deadwood, Finance Office, 102 Sherman Street, Deadwood, SD 57732.

**AFFIDAVIT OF APPLICANT**

**Advance Cancellation Notice Required:** If this event is cancelled, notify the Deadwood Police Department. Otherwise, City personnel and equipment may be needlessly dispatched.

I certify that the information in the foregoing application is true and correct to the best of my knowledge and belief and that I have read, understand and agree to abide by the rules and regulations governing the proposed Special Event and I understand that this application is made subject to the rules and regulations established by the City Commission of Deadwood. I agree to abide by these rules and further certify that I, on behalf of the organization, am also authorized to commit that organization, and therefore agree to be financially responsible for any cost and fees that may be incurred by or on behalf of the Event to the City of Deadwood.

Name of Applicant (PRINT): Wade Morris/aka Bobby Rock Title: Director

\_\_\_\_\_  
Date: 6/17/24

(Signature of Applicant/Sponsoring Organization)

**NOTICE OF PUBLIC HEARING  
FOR FAIR IN THE SQUARE  
STREET CLOSURE**

NOTICE IS HEREBY GIVEN that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024, in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following requests:

**Street Closure:**

Deadwood Street closure from Main Street to Pioneer Way from 11:00 am. on Friday, September 6 to 10:00 p.m. on Saturday, September 7, 2024.

Any person interested in the approval or rejection of such request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

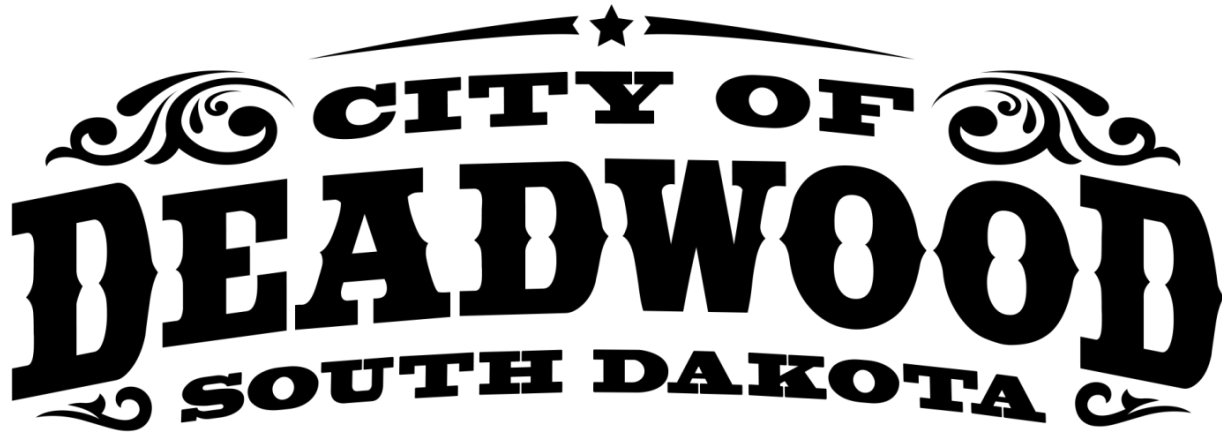
Dated this 1st day of July, 2024.

CITY OF DEADWOOD  
/s/ Jessica McKeown, Finance Officer

Publish BH Pioneer: July 5, 2024

For any public notice that is published one time:

Published once at the total approximate cost of \_\_\_\_\_.



# **City of Deadwood Special Event Permit Application and Facility Use Agreement for**

Outlaw Square Fair in the Square - Arts & Craft Fair September 6 & 7, 2024

---

**Instructions:**

To apply for a Special Event Permit, please read the Special Event Permit Application Instructions and then complete this application. Submit your application, including required attachments, no later than forty-five (45) days before your event. Facility Use Agreements should also be completed at this time (if applicable).

Adopted June 1, 2023

### EVENT INFORMATION

<input type="checkbox"/> Run	<input type="checkbox"/> Walk	<input type="checkbox"/> Bike Tour	<input type="checkbox"/> Bike Race	<input type="checkbox"/> Parade	<input type="checkbox"/> Concert
<input type="checkbox"/> Street Fair	<input type="checkbox"/> Triathlon	<input checked="" type="checkbox"/> Other			

Event Title: Fair in the Square - Arts & Craft Fair

Event Date(s): Sept. 6 & 7, 2024 Total Anticipated Attendance: unknown  
(month, day, year)

(# of Participants 33 vendors # of Spectators \_\_\_\_\_)

Actual Event Hours: (from: 9/6 3 pm & 9/7 10am AM / PM (to): 9/6 7 pm & 9/7 7 pm AM / PM

Location / Staging Area: Outlaw Square & Deadwood St

Set up/assembly/construction Sept 6 Start time: 11 am AM / PM

Please describe the scope of your setup / assembly work (specific details):  
Loading in of Vendors and set up of tents on Deadwood St along with Food Trucks

Dismantle Date: Sept 7 Completion time: 10 pm AM / PM

List any street(s) requiring closure as a result of this event. Include **street name(s), day, date** and **time** of closing and time of re-opening: Deadwood St. Closure on Sept.,. 6 11 am until 10 pm on Sept 7

- Any request involving 25 or less motor vehicles will utilize Deadwood Street and will be barricaded at both ends of Deadwood Street.
- Any request involving 25-50 motor vehicles (not including motorcycles) - will park on the north side of Main Street, which will not require street closure.
- Any request involving 50 or more vehicles (which would require an entire street closure From Wall Street to Shine Street and security must be provided at Shine Street and Main Street and Wall Street and Main Street to direct traffic.
- Additional security maybe required at the discretion of the Event Committee.

### OPEN CONTAINER

<https://www.cityofdeadwood.com/planning/page/special-event-open-container-information-and-maps>

Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_

Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_

Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_

Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_

Date: \_\_\_\_\_ Times: \_\_\_\_\_ Zone: \_\_\_\_\_

Adopted June 1, 2023

**APPLICANT AND SPONSORING ORGANIZATION INFORMATION**

Commercial (for profit)

Noncommercial (nonprofit)

Sponsoring Organization: Outlaw Square

Chief Officer of Organization (NAME): Wade Morris aka Bobby Rock

Applicant (NAME): Wade Morris aka Bobby Business Phone: (605 ) 717-6848

Address: \_\_\_\_\_  
(city) (state) (zip code)

Daytime phone: (605 ) 717-6848 Evening Phone: (605 ) 641-9162 Fax #: ( )

Please list any **professional event organizer** or **event service provider** hired by you that is authorized to work on your behalf to produce this event.

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
(city) (state) (zip code)

Contact person "on site" day of event or facility use Bobby Rock Pager/Cell #: 605-641-9162

**(Note):** This person must be in attendance for the duration of the event and immediately available to city officials)

**REQUIRED:** Attach a written communication from the Chief Officer of the organization which authorizes the applicant or professional event organizer to apply for this Special Event Permit on their behalf.

**FEES / PROCEEDS / REPORTING**

NO YES

Is your organization a "Tax Exempt, nonprofit" organization? If **YES**, you must attach a copy of your IRS 501C Tax Exemption Letter to this Special Event Permit application (providing proof and certifying your current tax exempt, nonprofit status).

Are admission, entry, vendor or participant fees required? If **YES**, please explain the purpose and provide amount(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OVERALL EVENT DESCRIPTION:  
ROUTE MAP/ SITE DIAGRAM/ SANITATION**

Please provide a **detailed description** of your proposed event. Include details regarding any components of your event such as use of vehicles, animals, rides or any other pertinent information about the event:

This is Outlaw Square's Annual Fair in the Square - Arts & Craft Fair

Vendors will be filling Outlaw Square and Deadwood St.

Will have a couple food trucks participating in this event

Set up taking place starting at 11 am on Friday Sept 6

Fair runs Friday 3 pm to 7 pm with overnight Security

Saturday run 10 am until 7 pm. Load out will be begin at 7 with Deadwood Street being open no later than 8 pm.

**OVERALL EVENT / FACILITIES RENTAL DESCRIPTION (CONTINUED)**

- |                                     |                                     |   |
|-------------------------------------|-------------------------------------|---|
| NO                                  | YES                                 |   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Does the event involve the sale or use of alcoholic beverages? If <b>YES</b> , please provide your liquor liability insurance information to the last page of this application.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Will Items or services be sold at the event? If <b>YES</b> , please describe: <u>Vendors will have various items for sale</u>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Does this event involve a moving route of any kind along streets, sidewalks, or highways? If <b>YES</b> , attach a detailed map of your proposed route, indicating the direction of travel and provide written narrative to explain your route. |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Does this event involve a fixed venue site? If <b>YES</b> , attach a detailed site map showing all street impacted by the event.  |

Adopted June 1, 2023

In addition to the route map required above, please attach a diagram showing the overall lay-out and set-up locations for the following items:

- Alcoholic and Non-alcoholic Concession and / or Beer Garden Areas.

- Food Concession and / or Food Preparation Area(s).

Please describe how food will be served at the event: \_\_\_\_\_  
Food trucks will be serving and following their protocols  
 \_\_\_\_\_

If you intend to cook food in the event area, please specify the method to be used:

GAS       ELECTRIC       CHARCOAL       OTHER(SPECIFY): \_\_\_\_\_

- First Aid Facilities and Ambulance locations.
- Tables and Chairs.
- Fencing, Barriers and / or Barricades.
- Generator Locations and / or Source of Electricity.
- Canopies or Tent Locations.
- Booths, Exhibits, Displays or Enclosures.
- Scaffolding, Bleachers, Platforms, Stages, Grandstands or Related Structures.
- Vehicles and / or Trailers.
- Trash Containers and Dumpsters.

**(NOTE):** You must properly dispose of waste and garbage throughout the term of your event and immediately upon conclusion of the event, the area must be returned to a clean condition.

Number of trash cans: \_\_\_\_\_      Trash Containers w / lids: \_\_\_\_\_

Describe your plan for clean-up and removal of waste and garbage during and after the event or use of facility: Outlaw Square staff will handle clean up  
 \_\_\_\_\_

Other Related Event Components not covered above. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## SAFETY / SECURITY / ACCESSIBILITY

Please describe your procedures for both **Crowd Control** and **Internal Security**: \_\_\_\_\_  
**Overnight Security hired - Outlaw Square handles the rest**

Please describe your Accessibility Plan for access at your event by individuals with disabilities: \_\_\_\_\_  
**Outlaw Square is ADA compatible**

**REQUIRED: It is the applicant's responsibility to comply with all City, County, State and Federal Disability Access Requirements applicable to this event.**

NO YES



Have you hired any Professional Security organization to handle security arrangements for this event? If **YES**, please list:

Security Organization: Badlands Security

Security Organization Address: 11089 Snoma Road Belle Fourche, SD  
(city) (state) (zip code)

Security Director (Name): Fritz Carlson Business phone: \_\_\_\_\_

NO YES



Is this a night event? If **YES**, please state how the event and surrounding area will be illuminated to ensure the safety of the participants and spectators: \_\_\_\_\_

Please indicate what arrangements you have made for providing **First Aid Staffing and Equipment**?

Number N/A Ambulance(s) – How provided? \_\_\_\_\_

Number N/A Emergency Medical Technicians – How provided? \_\_\_\_\_

APPLICANT specifically acknowledges and agrees that it shall be solely responsible for any damage to personal property located in or stored in or upon DEADWOOD's property pursuant to the activity for which approval is being sought and that DEADWOOD shall not be responsible for any damage or loss to or of APPLICANT's property which results from any cause or reason with regard to personal property owned by APPLICANT stored or located on DEADWOOD's property pursuant to approval of the activity for which approval is being sought herein.

Acknowledge acceptance with initial: WM

APPLICANT agrees to hold DEADWOOD harmless and indemnify DEADWOOD from any sums of money which DEADWOOD might have to pay to any person as a result of property damage, personal injury or death resulting from APPLICANT's use of the City property pursuant to approval of the activity for which approval is being sought herein.

Acknowledge acceptance with initial: WM

Adopted June 1, 2023



## PARKING PLAN / SHUTTLE PLAN / MITIGATION OF IMPACT

Please describe your plans to notify all residents, businesses and churches impacted by the event: \_\_\_\_\_  
 Redients and businesses notified through city public hearing notices \_\_\_\_\_

## ENTERTAINMENT / ATTRACTIONS / RELATED EVENT ACTIVITIES

NO YES

Are there any **musical entertainment** features related to your event or facilities rental? If **YES**, please state the number of bands and type of music.

Number of Stages: \_\_\_\_\_ Number of Bands: \_\_\_\_\_

Type of Music: \_\_\_\_\_

Will **sound amplification** be used?  
 If **YES**, please indicate: Start Time: \_\_\_\_\_ AM / PM – Finish Time: \_\_\_\_\_ AM / PM

Will **sound check** be conducted prior to the event?  
 If **YES**, please indicate: Start Time: \_\_\_\_\_ AM / PM – Finish Time: \_\_\_\_\_ AM / PM

Please describe the sound equipment that will be used for your event: \_\_\_\_\_

Will any fireworks, rockets or other pyrotechnics be used? If **YES**, please attach a copy of your permit (issued by the State Fire Marshall's office) to this application.

Are any signs, banners decorations or special lighting be used? If **YES**, please describe: \_\_\_\_\_  
**Vendor banners within the Square at their tents**

## PROMOTION / ADVERTISING / MARKETING / INTERNET INFORMATION

NO YES

Will this event be promoted, advertised or marketed in any manner? If **YES**, please describe:  
**Posters, social media, web site**

NO YES

Will there be any live media coverage during your event? If **YES**, please explain:

Refer all event public inquiries and / or media inquiries for this event to:

NAME: Bobby Rock PHONE: 605-717-6848

Adopted June 1, 2023



**NOTICE OF PUBLIC HEARING  
FOR BLACK HILLS VETERANS MARCH**

**NOTICE IS HEREBY GIVEN** that the City Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held July 15, 2024 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will be at 5:00 p.m. or soon thereafter as the matter may be heard, will consider the following request:

**Use of Event Complex**

Request to waive user fees at the Event Complex for Black Hills Veterans March on Friday, September 20 to Saturday, September 21, 2024.

**Relaxation of Open Container:**

Saturday, September 21, 2024 from noon to 9:00 p.m. at the Event Complex.

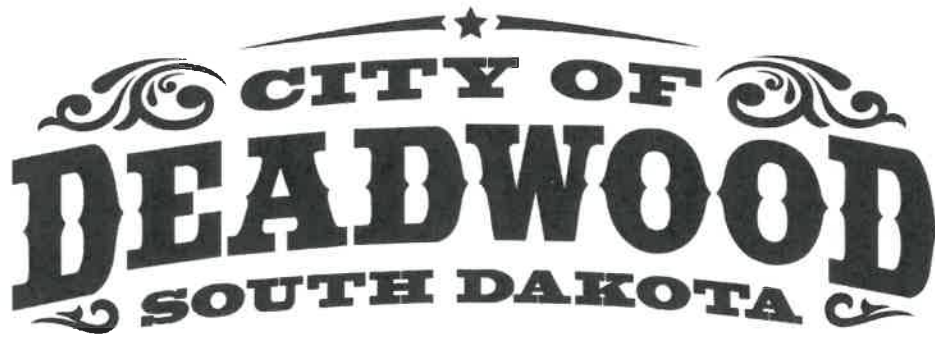
Any person interested in the approval or rejection of such transfer request may appear and be heard or file with the City Finance Officer their written statement of approval or disapproval.

Dated this 1st day of July, 2024.

CITY OF DEADWOOD  
/s/ Jessica McKeown, Finance Officer

Please publish: B.H. Pioneer, July 5, 2024.

For any public notice that is published one time:  
Published once at the total approximate cost of \_\_\_\_\_.



## Event Complex Rental and Use Agreement

**Event:** Black Hills Veteran March and Marathon

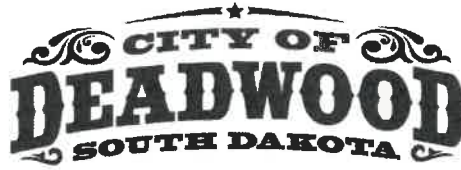
**Date:** 20-21 September 2023 2024

The City of Deadwood has contracted with the Deadwood Chamber of Commerce and Visitors Bureau for the management and coordination of the Deadwood Event Complex. As an applicant for rental and use of any portion of the Deadwood Event Complex, you are required to contact the Chamber for coordination and assistance in the submittal of this application to the City. The Chamber can be contacted at the following address:

Deadwood Chamber of Commerce  
501 Main Street  
Deadwood, SD 57732  
605-578-1876

# Table of Contents

Topic	Page
Table of Contents .....	2
Rental and Use Agreement	
• Contact information .....	3-4
• Rental & Deposit Fee Schedule .....	5
• Rental Rules and Regulations .....	6-7
Insurance and Liability Overview.....	8
• Facilities Use Agreement Indemnification and Insurance Clause .....	9
• Event Sponsor Release and Indemnification Agreement .....	10-11
• Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment .....	12
• Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment for Minor(s) .....	13
Building Rental Rules .....	14
Event Complex Parking Requirements.....	15
Responsibilities to and of Concessionaire.....	16
Acknowledgement of Deadwood Codified Ordinances	
• Alcohol Policy .....	17
• Liquor Liability Insurance.....	18
• General Business within the Complex .....	19
• Signs and Banners.....	20
City Services and Equipment .....	21-22
References.....	23



Outdoor Event Complex  
Deadwood, SD 57732

### Deadwood Event Complex Rental and Use Agreement

Event Name: Black Hills Veteran March and Marathon

**Contact Information:**

Name of Applicant: Quenten Johnson

Business/Organization: Black Hills Veterans March and Marathon

Mailing Address: 7130 Castlewood Dr

City, State Zip: Summerset, SD 57718

Business Phone: 605-580-6012 Cell Phone: \_\_\_\_\_

Email Address: Quenten.j.johnson.mil@army.mil

**Dates Event Complex requested:**

Set up Date(s): 20SEP24 Hour(s): 0900

Event Date(s): 21SEP24 Hour(s): 0630-2000

Clean-up Date(s): 21SEP24 Hour(s): 1800-2000

Approximate number of people who will attend: \_\_\_\_\_

I am applying to use the:  
*(Please check property requested)*

- Ticket Booth
- Main Grandstand Concession
- Crow's Nest
- Main Grandstand Restrooms
- VIP Grandstand
- Baseball Field(s)
- Baseball Field Restrooms
- Arena and Corral Areas
- Venue Seating
- Parking Lots
- Pyrotechnics
- Open Container

Office use Only
Key #
Key #
Key #
Key #
Key #
Key #

# Deadwood Event Complex Rental and Use Agreement

Event Name: Black Hills Veteran March and Marathon

**Compliance with Deadwood City Ordinances:**

Please review the City of Deadwood Ordinances located on the City of Deadwood website: [www.cityofdeadwood.com](http://www.cityofdeadwood.com) or by calling (605) 578-2082.

- 1) Deadwood Codified Ordinance - Chapter 8.12 – Noise. This ordinance must be adhered to. A violation of this ordinance could be grounds for refusing future rental requests.
- 2) Deadwood Codified Ordinance – Title 5 – Business License. This ordinance may apply.

**Additional contacts:**

Names & contact number of event representatives or sub-contractors (i.e. security, refuge, etc.):

Name: Quenten Johnson Title: Co-Chair  
 Phone: 605-580-6012 Representing: \_\_\_\_\_

Name: Jerico Witte Title: Finish Line Chair  
 Phone: 605-360-3775 Representing: \_\_\_\_\_

Name: Kayleigh Cihak Title: Rest Stop Chair  
 Phone: 605-490-2747 Representing: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Representing: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Representing: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Representing: \_\_\_\_\_

# Deadwood Event Complex Rental and Use Agreement

**Renter Type:**     For-Profit     Private     Non-Profit     Government

(Check One)    *Categories above defined in the Complex Guidelines and Information Sheet*

**Rental Fees:**

	Event Complex Facilities	Parking Lots Only	Baseball Fields Only
<b>Private</b>	\$35 / Hr.	\$25 / Hr.	\$25 / Hr.
	\$300 / Day	\$200 / Day	\$100 / Day
<b>Non-Profit</b>	\$30 / Hr.	\$25 / Hr.	No charge
	\$250 / Day	\$150 / Day	No charge
<b>For Profit</b>	\$75 / Hr.	\$65 / Hr.	\$35 / Hr.
	\$500 / Day	\$500 / Day	\$300 / Day
<b>Government Agencies</b>	No charge	No charge	No charge

**Ticketed Events:**

Events planning on the sale of tickets for attendees may choose to apply a ticket surcharge or facility use fee to each ticket sold. The City of Deadwood has a ticket surcharge, which is set and amended by resolution. **The City Of Deadwood reserves the right to apply the rental fees regardless of the ticket surcharge.**

**Rental Fees subject to change. Fees and deposits waived for Lead Deadwood School Activities.**

**Damage Deposit (Refundable):** \$1250 minimum (no alcohol) or \$2,500 minimum (serving alcohol), which includes a \$250 non-refundable administrative fee.

**A cleaning/trash removal fee (Non-Refundable) of \$250.00 PER DAY applies.**

**A Streaming Fee of \$250 per Event applies IF USED.**

**Deposit must be received before application can be approved.**

**City reserves the right to bill for additional fees if damages exceed deposit amount.**

**Key Deposit (One Key or All Keys) (Refundable): \$100.00**

Please read the Use Guidelines for cancellation and reservation policies.

**Fees**

**Request to Waive Complex Fees**

**Refundable Deposits**

Event Complex Facilities     \$ \_\_\_\_\_

Baseball Fields                 \$ \_\_\_\_\_

Parking Lots                     \$ \_\_\_\_\_

Cleaning/Trash Removal     \$ 250 \_\_\_\_\_

Streaming                         \$ \_\_\_\_\_

**Total Fees**                         \$ 250 \_\_\_\_\_

Key Deposit                         \$ 1250 \_\_\_\_\_

Damage Deposit                 \$ \_\_\_\_\_

**Total Deposits**                 \$ 1250 \_\_\_\_\_

Fee and Deposit received.

**Please write separate checks to the City of Deadwood (one check for event and one check for deposits)**

**Organization:** Black Hills Veterans March and Marathon

**Name:** Quenten Johnson

**Title:** Co-Chair

**Signature:** JOHNSON.QUENTEN.JAMES.1153328877 Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.21 15:33:08 -0600

**Date:** \_\_\_\_\_



## Acknowledgement of Use Rules and Regulations

1. The user assumes responsibility for damage to the rented building(s) and/or area(s) and its amenities during the time of usage, including any time rented for set-up and clean-up. Any property damaged beyond normal wear and tear may be replaced or repaired at the option of City of Deadwood at the user's expense. Liability will be the actual repair or replacement cost and will not be limited to the damage & cleaning deposit.  
Initials QJJ
2. In the event there is damage to the Event Complex or its amenities, City of Deadwood or its appointed agent will notify the undersigned user of the nature and extent of the damage. City of Deadwood will provide an appraisal of the repair or replacement within 30 days of the event. Refund will be discussed at the next event committee meeting, which is the last Thursday of each month. If approved, refund will be issued after the City Commission meeting on the 1<sup>st</sup> or 3<sup>rd</sup> Monday of each month. The user will be billed for any amount that exceeds the damage/cleaning deposit.  
Initials QJJ
3. The user agrees to leave the building and grounds in as good or better condition at the end of the event. Any additional clean-up required after the event will be billed to the user at a rate of \$100.00 per hour per person required to perform the work.  
Initials QJJ
4. A concessionaire is provided for approved special events at the Deadwood Event Complex based on the size of the event and the needs of the event organizer. The concessionaire has a guaranteed dollar amount of two hundred and fifty (\$250.00) dollars per day to the Concessionaire when the concession is requested by the Event Organizer. If the event does not produce the two hundred and fifty (\$250) dollars per day, the event organizer shall be required to cover the shortfall to the Concessionaire. The guaranteed dollar amount shall be paid to the Concessionaire if events are canceled within 72 hours of the event as the concessionaire has at that point prepared for the event taking place. If the event is canceled prior to 72 hours from the event, the Concessionaire shall not be guaranteed the two hundred and fifty (\$250.00) dollars per day.  
Initials QJJ
5. The user is responsible for removal of trash and placing in a dedicated area. All trash must be bagged.  
Initials QJJ
6. I understand and agree: (Please Check Box for your Acknowledgement)
  - A person in charge of the event must be in attendance at all times during the event.  
I have read & signed the Alcohol Policy form.
  - All guests must remain in the vicinity of the building/area rented and are not allowed to roam the Event Complex or enter other buildings.
  - A person in charge must keep the guests off the Football Field unless granted permission to use from the Deadwood City Commission for the event.
  - Smoking on City property, including the Event Complex, is prohibited except in designated areas. No person shall smoke or carry any lighted smoking instrument, any cigar, cigarette, pipe, electronic cigarette on any City property.

- If the fire alarms sound, a person in charge will instruct all guests to evacuate to a safe distance outside the building(s) until such time as the Fire Department allows re-entry.
- A person in charge will not allow anyone to interfere with the fire alarm system.
- All vehicles must be parked in designated parking areas. No vehicles are to be parked in the Fire Lanes surrounding the buildings.
- The event representative understands and agrees to immediately pay for any damage or cleaning that exceeds the deposit amount.
- If decorations are used, only painter's tape (low adhesive) can be used on any surfaces. No holes may be made in Event Complex property. Renter must remove all decorations and attachments.
- No alterations can be made to the buildings or grounds without the express permission of City of Deadwood. This includes, but is not limited to, installation of equipment, installation of wiring, cable or other devices or any alteration of the building.
- All exits cannot be blocked during the event.
- Unless otherwise specified by the City Commission, all events must end by 10:00 p.m. Sunday – Thursday and 11:00 p.m. Friday – Saturday. Any event permitted may be required to have security present.
- Noise that may cause inconvenience, annoyance or alarm to others is not permitted. Any event that generates excessive noise must take place between the hours of 7:00 a.m. – 10:00 p.m. only and must comply with Noise Regulations found in the City of Deadwood Codified Ordinance.
- In case of an emergency, such as a fire, dial 911. In the case of a non-emergency, the Deadwood Police Department number is (605) 578-2623 and the Deadwood Fire Department number is (605) 578-1212.
- In case of issues related to the Event Complex during off business hours such as electrical problems, wastewater issues, lighting problems, property related issues, etc. contact Lawrence County Dispatch at (605) 578-2230. The proper authority will be dispatched to remedy the problem. If the problem occurs during business hours (7am-4pm M-F) contact the Deadwood Public Works Department at (605) 578-3082.

Initials QJJ

7. Outdoor/Animal Events: (Check Acknowledgement)

- Event representatives are responsible for removal of all animal waste, feed, straw and garbage.
- Event representatives are responsible for cleaning restrooms after the event (if used).
- Event representatives are responsible for cleaning all areas utilized including the staging areas, grounds, seating areas, parking areas, and buildings.

Initials QJJ

\*\*Local Non-Profits may be available to assist. If hiring a contractor, contractor must have proof of insurance and contractor's license.

## Insurance and Liability

---

### Overview:

When city facilities are used by the general public for special events which pose a high risk of injury (e.g. outdoor recreational activities or athletic events), a signed Waiver of Liability, Indemnification, and Medical Release should be required of each participant.

The waiver form should not be significantly modified. It has been written to comply with a 1994 Supreme Court decision, which stated:

- Pre-injury releases are much more likely to be deemed valid and enforceable when they are written on a separate document--that is, not imbedded in an application, rental agreement or sign-up sheet;
- Unless the intention of the parties is expressed in unmistakable language, an exculpatory clause will not be deemed to insulate a party from liability for his own negligent acts...what the law demands is that such provisions be clear and coherent; and
- The more inherently dangerous or risky the recreational activity, the more likely that an anticipatory release will be held valid.

The form can and should be modified to specifically identify the activity involved. In the case of a particularly dangerous activity, the level of risk involved should also be stated. For example, it may not be sufficient to name the activity "motorcycle stunts." The release form should specify the level of difficulty of the stunts.

---

### NOTE:

*High risk activities warrant the use of either a Facilities Use Agreement which requires the user to carry liability coverage, or participant liability waivers, or both. The process of determining when to require insurance of the user and/or when to require signed waivers of participants can be a difficult one. Unfortunately, with the wide variety of activities, events and facilities across City government, there is no way to establish a standard policy to specifically address all cases. Please contact the City of Deadwood's Safety Director for guidance at 605-578-2082.*

---

The following pages include:

- Facilities Use Agreement Indemnification and Insurance Clause
- Event Sponsor Release and Indemnification Agreement
- Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment
- Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment for Minor(s)

## Facilities Use Agreement Indemnification and Insurance Clause

User agrees to indemnify and hold the City, and its officers, agents and employees harmless from any and all liability, damages, actions, claims, demands, expenses, judgments, fees and costs of whatever kind or character, arising from, by reason of, or in connection with the use of the facilities described herein. It is the intention of the parties that the City, and its officers, agents and employees shall not be liable or in any way responsible for injury, damage, liability, loss or expense resulting to the user and those it brings onto the premises due to accidents, mishaps, misconduct, negligence or injuries, either in person or property.

User expressly assumes full responsibility for any and all damages or injuries which may result to any person or property by reason of or in connection with the use of the facilities pursuant to this agreement and agrees to pay the City for all damages caused to the facilities resulting from user's activities hereunder.

User represents that its activities, pursuant to this agreement, will be supervised by adequately trained personnel, and that user will observe, and cause the participants in the activity to observe, all safety rules for the facility and the activity. User acknowledges that the City has no duty to and will not provide supervision of the activity.

User shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit. Five days prior to commencement of this Agreement, User shall furnish the City with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and provide that such insurance shall not be canceled, except on 30 days' prior written notice to the City. The City Commission reserves the right to require additional commercial general liability insurance necessary to protect the interests of the City.

***I have read this Facilities Use Agreement Indemnification and Insurance Clause***

Organization: Black Hills Veteran March and Marathon

Name: Quenten J Johnson Title: Co-Chair

Signature: JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 16:33:51 -06'00'

## Event Sponsor – Release and Indemnification Agreement

***This is a Release of Liability Indemnification Agreement. Special Events Holder must read carefully before signing.***

In consideration for being permitted to engage in the following special event activities on Deadwood property (describe in detail):

The BHVMM is a way to honor the sacrifices of the nation's service men and women. It's a 26.2 mile March and Marathon that starts in Rochford and ends at the Deadwood fairgrounds. The events at the fairgrounds include the race finish, a catered meal with donated beverages to include beer, and possibly

musical entertainment. All festivities will be concluded by 8PM. All funds raised for the event helps pay for the current and future events and the rest is donated to various veterans organizations.

Special Events Holder hereby acknowledges, represents, and agrees as follows:

- A. We understand that the above described activities may be dangerous and do or may involve risks of injury, loss of damage to us and/or third parties. We further acknowledge that such risks may include but not be limited to bodily injury, personal injury, sickness, disease, death, and property loss or damage, arising from the following circumstances, among others:

The BHVMM does carry a 1 million dollar policy.

Initials QJJ

- B. If required by this paragraph, we agree to require each participant in our special event to execute a RELEASE AND INDEMNIFICATION AGREEMENT for ourselves and for Deadwood, on a form approved by Deadwood. Contact Deadwood Parks, Recreations and Events Director for determination: 605-578-2082.

Participant Release and Indemnification required? YES  NO

Initials QJJ

- C. We agree to procure, keep in force, and pay for special event insurance coverage, from an insurer acceptable to Deadwood, for the duration of the above described activities.

Initials QJJ

- D. By signing this **RELEASE AND INDEMNIFICATION AGREEMENT**, we hereby expressly assume all such risk of injury, loss or damage to us or any other related third party arising out of or in any way related to the above described activities, whether or not caused by the act, omission, negligence, or other fault of Deadwood, its officers, its employees, or by any other cause.

Initials QJJ

E. By signing this **RELEASE AND INDEMNIFICATION AGREEMENT**, we further hereby exempt, release and discharge Deadwood, its officers, and its employees, from any and all claims, demands and actions for such injury, loss, or damage arising out of or in any way related to the above described activities, whether or not caused by the act, omission, negligence, or other fault of Deadwood, its officers, its employees, or by any other cause.

Initials QJJ

F. We Further agree to defend, indemnify, and hold harmless Deadwood, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims and demands, including any third party claim asserted against Deadwood, its officers, employees, insurers, or self-insurance pool, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss of damage, or any other kind of loss of any kind whatsoever, which arises out of or are in any way related to the above described activities. Whether or not caused by our act, omission, negligence, or other fault of Deadwood, its officers, its employees, or by any other cause.

Initials QJJ

G. By signing this **RELEASE AND INDEMNIFICATION AGREEMENT**, we hereby acknowledge and agree that said agreement extends to all acts, omission, negligence, or other fault of Deadwood, its officers, and/or its employees, and that said Agreement is intended to be as broad and inclusive as permitted by the laws of the State of South Dakota. If any portion thereof is held invalid, it is further agreed that the balance shall, notwithstanding, continue in full legal force and effect.

Initials QJJ

H. We understand and agree that this **RELEASE AND INDEMNIFICATION AGREEMENT** shall be governed by the laws of the State of South Dakota, and that jurisdiction and venue for any suit of cause of action under this agreement shall lie in the courts of Lawrence County, South Dakota.

Initials QJJ

I. This **RELEASE AND INDEMNIFICATION AGREEMENT** shall be effective as of the date or dates of the applicable special event, shall continue in full force until our responsibilities hereunder are full discharged, and shall be binding upon us, or successors, representatives, heirs, executors, assigns, and transferees.

Initials QJJ

**IN WITNESS THEREOF, THIS RELEASE AND INDEMNIFICATION AGREEMENT** is executed by the special events holder, acting by and through the undersigned, who represents that he or she is properly authorized to bind the Special Events Holder hereto.

Organization: Black Hills Veteran March and Marathon

Name: Quenten J Johnson Title: Co-Chair

Signature: JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:34:24 -06'00'

## Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment

By my signature below, I acknowledge that I am aware of, appreciate the character of, and voluntarily assume the risks involved in participating in:

Black Hills Veteran March and Marathon

By my signature below, on behalf of myself, my heirs, next of kin, successors in interest, assigns, personal representatives, and agents, I hereby:

1. Waive any claim or cause of action against and release from liability the City of Deadwood, its officers, employees, and agents for any liability for injuries to my person or property resulting from my participation in the activity listed above;
2. Agree to indemnify and hold harmless the City of Deadwood, its officers, employees and agents for any claims, causes of action, or liability to any other person arising from my participation in the activity listed above; and
3. Consent to receive any medical treatment deemed advisable during my participation in the activity listed above.

I have read this Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment, and fully understand its terms, understand that I have given up substantial rights by signing it, and have signed it freely and voluntarily without any inducement, assurance, or guarantee being made to me and indent my signature to be complete and unconditional release of liability to the greatest extend allowed by law.

Name: Quenten Johnson Date of Birth: 9APR78

Address: 7130 Castlewood Dr  
Summerset, SD 57718

Signature: JOHNSON.QUENTEN.JAMES.11533 28877 Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:34:45 -06'00' Date: \_\_\_\_\_

## Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment

By our signatures below, we acknowledge that we are aware of, appreciate the character of, and voluntarily assume the risks involved in participating:

---

---

By our signatures below, on behalf of ourselves, our heirs, next of kin, successors in interest, assigns, personal representatives, and agents, we hereby:

1. Waive any claim or cause of action against and release from liability the City of Deadwood its officers, employees, and agents for any liability for injuries to person or property resulting from participation in the activity listed above;
2. Agree to indemnify and hold harmless the City of Deadwood, its officers, employees, and agents for any claims, causes of action, or liability to any other person arising from participation in the activity listed above;
3. Consent to receive any medical treatment deemed advisable during participation in the activity listed above; and
4. Acknowledge that we are signing below as a minor child and as the parent or legal guardian of the minor child named below.

**I have read this Release and Waiver of Liability, Assumption of the Risk and Indemnity Agreement and Consent to Medical Treatment, and fully understand its terms, understand that I have given up substantial rights by signing it, and have signed it freely and voluntarily without any inducement, assurance, or guarantee being made to me and indent my signature to be complete and unconditional release of liability to the greatest extend allowed by law.**

Minor's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Guardian's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## City of Deadwood Building Rental Rules

\*Building Rental Rules only apply if the event is utilizing the grandstands, crow’s nest, or ticket booth.

In addition to the rental agreement, the following rules are in force:

- No fog machine or similar device may be used in the buildings as they will set off the smoke alarms.
- No alcohol is allowed on any portion of the Event Complex unless consent has been given by City of Deadwood, and the Alcohol Policy has been signed and approved.
- No nails, staples, or tacks to be put on any City property. Painter’s tape (low adhesive) is allowed.
- All decorations must be flame retardant in accordance with fire code.
- All exit lights must remain uncovered and visible.
- No smoking is allowed on any city property, except designated areas. No person shall smoke or carry any lighted smoking instrument, any cigar, cigarette, pipe, electronic cigarette or other smoking equipment on city property.
- At 10:00 p.m., music must be shut off or turned down so it cannot be heard outside of the Event Complex.
- Propane usage allowed with City of Deadwood’s prior consent.
- Clean up after your event, including but not limited to:
  - Sweep floors & mop spills and wipe down countertops
  - Empty trash in building & dispose of in receptacles outside
  - Take down any and all decorations and remove tape
  - Pick up trash within the entire Event Complex
- Deposit will be returned after the Event Complex is inspected. The deposit is available for return after the inspection and no deficiencies have been reported.

I have read and understand these rules.

Organization: Black Hills Veteran March and Marathon

Name: Quenten Johnson Title: C-Chair

Signature: JOHNSON.QUENTEN.JAMES.1153328877 Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:35:16 -06'00' Date: \_\_\_\_\_

## Event Complex Parking Requirements

\*Event Complex Parking rules and requirements apply to all parking used within the Complex, as well as the parking in immediate adjacent properties.

The following rules are in force:

- A parking plan must be submitted as an attachment to this application and include the following information:
  1. Estimated attendance including Staff, spectators, and/or participants
  2. Parking Lots requested and location of proposed attendants
  3. Detailed drawing of proposed traffic flow and access; both pedestrian and vehicular
- Parking assistance required for events that use parking lots for spectators or contestants
- Fire lanes must be kept clear
- Number of Parking Attendants Required:
  - One Attendant located at the gate during the event at all times
  - One additional attendant for every 500 spectators or contestants

\*Example: 1000 people in attendance with contestants, staff, and/or participants would require one gate attendant and two parking attendants
- Failure to provide required attendants will be billed \$100.00 per hour per attendant and City will assign attendants

Additional Notes:

1. High visibility vests with Deadwood Event Complex identified on them will be available in the Ticket Booth.
2. Large map of Complex will be on display in Ticket Booth for communication.
3. Absolutely no parking on fields without prior written approval from Parks, Recreations and Events Director.

I have read and understand these rules.

Organization: Black Hills Veteran March and Marathon

Name: Quenten Johnson Title: Co-Chair

Signature: JOHNSON.QUENTEN.JAMES.1153328877 Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:36:05 -06'00' Date: \_\_\_\_\_

## Responsibilities to and of the Concessionaire

- A. The Concessionaire shall sell quality food and beverages; schedule and provide full maintenance of the concession premises; employ, train, and supervise personnel with appropriate qualifications and experience to assist in such functions; perform or supervise employees in the performance of all other tasks related to the operation, maintenance of the concession premises; and pay for and obtain all licenses and permits necessary for the operation of the concessions granted. The Concessionaire may offer the sale of additional items from the Concession Premises but shall be limited to food and beverage and approved by the Deadwood City Commission.
- B. The Concessionaire shall not sell any alcohol. Alcohol during events held at the Deadwood Event Complex is the sole responsibility of the Event Organizer. The event organizer will have access to the coolers and the outside bars in the facility.
- C. Concessionaire shall at its own expense, at all times, keep the Concession Premises and areas within twenty-five (25) feet thereto in a neat, clean, safe, and sanitary condition; and keep the glass of all windows and doors serving such areas clean and presentable. Concessionaire shall furnish all cleaning supplies and materials needed to operate such areas in the manner prescribed in this agreement; Concessionaire shall provide or perform all necessary janitorial service to adequately maintain the inside and outside of such areas including concession seating. Concessionaire shall be responsible for keeping the areas within twenty-five (25) feet of the perimeter of such areas free of litter and clean of spills resulting from concession operations. The concessionaire shall be obligated to maintain a regular cleaning schedule, as well as a regular extermination service schedule.
- D. Garbage collection within the concession premises and within twenty-five (25) feet of the premises shall be maintained by the Concessionaire and disposed into a dumpster provided by the Event Organizer. The Concessionaire shall **NOT** pay for garbage service during events.
- E. Concessionaire shall be open for business during all special events approved by City Commission where the concession service is requested for the Deadwood Event Complex. If the event organizer is not requesting concession services, the event organizer cannot bring in other vendors to provide food and beverage for the event. The hours of operation of the concession premises shall coincide with the hours of the event scheduled and the hours of operation shall be coordinated between the Concessionaire and the Event Organizer.

A component of the facility use agreement is a guaranteed dollar amount of two hundred and fifty (\$250.00) dollars per day to the Concessionaire when the concession is requested by the Event Organizer. If the event does not produce the two hundred and fifty (\$250) dollars per day, the event organizer shall be required to cover the shortfall to the Concessionaire. The guaranteed dollar amount shall be paid to the Concessionaire if events are canceled within 72 hours of the event as the concessionaire has at that point prepared for the event taking place. If the event is canceled prior to 72 hours from the event, the Concessionaire shall not be guaranteed the two hundred and fifty (\$250.00) dollars per day.

---

**I have read and understand the responsibilities to and of the concessionaire as they relate to the rental agreement and the use of the Deadwood Event Complex.**

Organization: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Alcohol Policy for Facility Rentals

No alcohol is allowed in any building or on the grounds of the City of Deadwood Event Complex including the parking area without the expressed consent of City of Deadwood. To obtain permission to serve alcoholic beverages the City Finance Office MUST be contacted, at (605) 578-2600. Alcoholic beverages are NOT permitted outside of the Event Complex.

The sale of alcoholic beverages may be allowed by acquiring a special alcoholic beverage license from the City of Deadwood per Deadwood Codified Ordinance Chapter 5.04.070 and South Dakota Codified Law Title 35. The process to obtain alcohol licenses may take up to 45 days.

If the undersigned represents a Private Party or For-Profit Organization, the serving of alcoholic beverages is allowed without a special alcoholic beverage license, provided that the event is invitation only, not open to the public, no public advertising and no money is involved (no cash bars and the cost of the alcohol cannot be hidden in an entry fee). Again, alcoholic beverages are NOT permitted outside of the Event Complex. The Finance Office MUST be contacted, at (605) 578-2600 then after review of the request for the serving of alcoholic beverages, the City Commission will approve or disapprove of the request. User will receive notification in written form from the City Finance office of the Commission action.

For those functions where consent has been given the following rules must be followed:

- At any event where alcohol is available, the renter must provide, at their expense, licensed servers unless otherwise approved by the Deadwood City Commission. A copy of the license must be provided to the City of Deadwood prior to the event.
- The renter will also, at their expense, provide adequate licensed certified security to cover the event. A copy of the license and security certification must also be provided to the City of Deadwood prior to the event. The entity can submit an "alternative" to a licensed certified security company, but the "alternative" security will generally entail having a certified police officer on site (off-duty officer is okay). The City will also need to be provided with their name & a copy of their certification, & they need to agree not to drink alcohol themselves.
- Keys for the facilities will not be issued until this information is received and confirmed.
- The renter is solely and wholly responsible to ensure all rules and regulations in regards to the serving of alcohol are followed.

**YES**, we will have alcohol at the contracted event and will abide by the Event Complex Alcohol Policy.

**NO**, we will not have alcohol at the contracted event and agree to police the buildings and parking area to ensure no alcohol is present at the event.

Organization: Black Hills Veteran March and Marathon

Name: Quenten Johnson Title: Co-Chair

Signature: 1153328877 JOHNSON.QUENTEN.JAMES. Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:36:44 -06'00'

Dates/Times Alcohol will be served: 21SEP24 from about 1200 to 2000

Business name who will be serving: \_\_\_\_\_

## Liquor Liability Insurance

---

This Insurance Liability Insurance coverage is required if you plan to sell alcoholic beverages at your event or facilities rental.

Name of Insurance Company: \_\_\_\_\_

Agent's Name: \_\_\_\_\_ Policy Type: \_\_\_\_\_

Phone: \_\_\_\_\_ Policy No.: \_\_\_\_\_

Address: \_\_\_\_\_

Please obtain the required insurance and mail an original insurance certificate to:

City of Deadwood  
Attn: Finance Office  
102 Sherman Street  
Deadwood, SD 57732.

---

## General Business within the Event Complex

1. If you will be selling any items (tangible personal property), you and vendors must present a copy of South Dakota Sales Tax Licenses. For information on sales tax licensing contact the following:

South Dakota Department of Revenue Office  
 445 East Capitol Ave  
 Pierre, SD 57501-3185  
 (605) 773-3311

Initials \_\_\_\_\_

2. If vendors are intended to be used during an approved event at the Deadwood Event Complex, all vendors shall comply with Chapter 5.28 of the Deadwood Codified Ordinances. This Ordinance is included within the guidelines and information packet for reference. In addition, vendors will be limited to designated areas (as indicated on the Event Complex site plan) within the Event Complex unless otherwise approved by the Deadwood City Commission. As the event organizer you understand the laws related to general business and vending within the City limits of Deadwood.

Initials \_\_\_\_\_

3. As the event organizer and the renter of the Event Complex you shall ensure all sales from any proposed business activities (vendors or the event itself) will not compete with products sold from the concession facility and the concessionaire provided through the City of Deadwood.

Initials \_\_\_\_\_

4. The user acknowledges the City of Deadwood has contracted a concessionaire to operate the concession spaces within the Deadwood Event Complex. The responsibilities in regards to the concessionaire and the concession space have been provided and are understood by the event organizer/user of the Event Complex.

Initials \_\_\_\_\_

Organization: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Event Complex Sign and Banner Policy

1. Approved events proposed for the Deadwood Event Complex are exempt from Chapter 15.32 Signs of the City of Deadwood Code for all signage and banners located within the event venue. Any proposed banners or signs on the outside of the perimeter fencing will be subject to permitting and the process for approval as part of Deadwood Codified Ordinance Chapter 15.32
2. All signage and banners may be installed at the beginning of the approved rental time and shall be removed within 24 hours of completion of the event. City Staff will remove banners remaining beyond the time for removal at a cost of \$150.00 per hour per person.
3. The City Planner and the Building Inspector shall approve any proposed signage proposed outside of the venue near the primary entrance to the Event Complex prior to the event. Signage proposed for way finding or entrance signage between Highway 14A/85 and Crescent Street may require South Dakota Department of Transportation and/or Deadwood Planning and Zoning Commission approval, proper timing and planning will be required and is very important in regards to approval of signage outside of the Event Complex.
4. The installation of all signage and banners shall be presented to the City of Deadwood prior to installation to prevent damage to City Property and to ensure compliance to the City of Deadwood Codified Ordinance Chapter 15.32. Attach a written plan with quantities, sizes, and locations of all signs and banners.

I have read the Sign and Banner Policy for the City of Deadwood Event Complex, fully understand its terms, understand that I shall abide by Deadwood Codified Ordinance 15.32, and have signed it freely and voluntarily.

Organization: Black Hills Veteran March and Marathon

Name: Quenten Johnson Title: Co-Chair

Signature: JOHNSON.QUENTEN.JAMES.1153328877 Date: \_\_\_\_\_  
JOHNSON.QUENTEN.JAMES. Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:37:53 -06'00'

## City of Deadwood Equipment and Services

### Limitations on the Provision of City Services; Cost and/or Fees

- A. Approval for use of the Deadwood Event Complex does not obligate or require the City to provide services, equipment, or personnel in support of an event.
- B. If the City provides services, equipment, or personnel in support of an event, the City will, charge the event organizer a cost determined by the Department Head in supervision of the services provided. The cost for use of equipment, personnel, and services is determined prior to submittal of application; additional services requested during the event will incur addition costs. ONLY the Department Head in supervision of the services provided shall approve additional services requested! Additional costs if applicable shall be mutually agreed upon prior to service and paid for prior to the service provided.
- C. Prior to submittal of this application, the applicant must meet with the proper City Department Head to determine costs and availability of services requested. A letter from the appropriate City Department stating the total costs and services available shall be submitted with the application along with payment for the services with the entire application.
- D. If the City is a co-sponsor of an event, city services, equipment, or personnel may be provided to support the event without charge.

### Equipment and Services Provided (Included in Rental Fees)

#### Public Works Department

- Electricity (existing facilities only – additional power is the responsibility of the renter with approval from the Public Works Director)
- Water and Sewer (existing facilities only – additional services are the responsibility of the renter with approval from the Public Works Director)
- Yard Hydrants (water sources) – The City has several yard hydrants available upon request throughout the property; however, hoses, stock tanks, etc. are the responsibility of the event organizer.
- Limited grading, scarifying, compacting the Arena Surface Prior to the Set-up of the Event
- Installation and tear down of traffic control devices and signs the City has available. The traffic control devices and signs are limited to the inventory of the City of Deadwood and what have been used during events held in the event complex in the past.
- Providing for and setting up of fencing at the SDDOT shop yard for overflow parking if requested. The agreement between the SDDOT and the City requires this property be set-up a particular way, utilized specifically, and restored to the condition it was in prior to the use.
- Fence/Corral Panels – The City may provide fence and/or corral panels owned by the City of Deadwood if they are available. The installation of all fence panels as part of an event will be the responsibility of the renter.
- Cleaning of the Grandstands is the responsibility of the event organizer. In addition, if the existing facilities are not adequate for the projected number of patrons' additional facilities are the responsibility of the renter.



Police Department

- Parade Escort for parades directly related to the event
- Traffic Control related to exiting of patrons at the intersection of Seventy-Six Drive and Highway 85/14A. This service shall be determined in advance if needed.

**Equipment and Services upon Request and Availability with Cost (NOT Included in Rental Fees)**Public Works Department

- Fire hydrants will NOT be available for event usage at any time and shall be kept clear for access in case of emergency.
- Additional services not specifically listed below shall be considered, evaluated, and determined if the City will provide the service. If the service can be provided a cost, if required, will be determined in writing prior to the event.

## Arena prep work including:

- Additional Grading, scarifying, compacting the Arena Surface after set-up of the event
- Pumping of water from the Arena Area
- Additional Dirt or Sand for the Arena
- Fence panel installation and tear down
- Snow removal from or hauling snow into event complex
- Water – Bulk amounts of water used for dust control, snowmaking, etc.

## General Event Complex Services:

- Garbage pick-up
- Costs for emptying City dumpsters if utilized
- Clean up of animal droppings during events

## Equipment/Machinery with a City Employee Operator ONLY:

- Motor grader
- Loader
- Dump Truck
- Skid Steer / Bobcat
- Sweeper (Large or Small)
- Bucket Truck
- Water Tank Truck

Police Department

- Traffic Control – Any traffic control assistance beyond what is provided with the use of the facility
- Security Services – Security services shall be a request to the Chief of Police and the availability of personnel may prohibit this service from being provided.

Fire Department

- On-site Staff and/or equipment: If the approved event requires Fire Department staff and/or equipment to be on-site due to the nature of the event.

### Renter Reference Sheet

Renter/Organization Name: Black Hills Veteran March and Marathon

**Requirements (If first time renter):**

- 3 References from a previous event location in which you hosted an event
- References cannot be a part of your organization or event
- Each Reference must have complete information

The City of Deadwood may contact references to evaluate your performance as a renter.

1) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

City/State: \_\_\_\_\_ Event Name: \_\_\_\_\_

Event Location: \_\_\_\_\_ Email: \_\_\_\_\_

2) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

City/State: \_\_\_\_\_ Event Name: \_\_\_\_\_

Event Location: \_\_\_\_\_ Email: \_\_\_\_\_

3) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

City/State: \_\_\_\_\_ Event Name: \_\_\_\_\_

Event Location: \_\_\_\_\_ Email: \_\_\_\_\_

I have read the foregoing rental agreement and all of the attachments as well as the use guidelines and information attached hereto and incorporated herein by this reference. I fully understand my rights and obligations in connection with use of the Deadwood Event Complex.

**RESERVATIONS WILL NOT BE CONFIRMED UNTIL THE SIGNED FACILITY USE AGREEMENT AND FULL PAYMENT IS RECEIVED.**

Organization: Black Hills Veteran March and Marathon

Name: Quenten Johnson Title: Co-Chair

Signature: 1153328877 JOHNSON.QUENTEN.JAMES. Digitally signed by JOHNSON.QUENTEN.JAMES.1153328877 Date: 2024.05.31 15:38:27 -06'00' Date: \_\_\_\_\_

Daytime Phone Number: 605-580-6012

Date of your Event(s): 20-21SEP24 Group/Event Name: Black Hills Veteran March and Marathon



**ORDINANCE NUMBER 1401  
SUPPLEMENTAL BUDGET APPROPRIATION #4 FOR 2024**

Section 1. To provide for the following expenditures there is hereby appropriated to the specified fund accounts following sums from funds not otherwise appropriated for the year 2024:

**FUND 0101 GENERAL FUND**

Public Buildings Repairs (Vehicle) \$ 4,180.20

Source of Revenue: Insurance Proceeds

Fire Equipment (PPE) \$ 13,358.00

Source of Revenue: SD DPS Fire Grant Program

**FUND 0209 BED AND BOOZE FUND**

Rec Center Equipment \$ 15,000.00

Source of Revenue: Donations

Rec Center Professional Services \$18,000.00

Source of Budget: Equipment

**FUND 0215 HISTORIC PRESERVATION FUND**

Capital Assets – Boardwalk and HP Projects \$ 1,170,500.00

Source of Budget: Debt Services budget line item

Section 2. This Ordinance is for the support and maintenance of the municipal government of said City of Deadwood, South Dakota, and its existing public and shall take effect immediately upon publication.

CITY OF DEADWOOD

\_\_\_\_\_  
David R. Ruth Jr. Mayor

\_\_\_\_\_  
ATTEST: Jessica McKeown, Finance Officer

First Reading: July 15, 2024  
Second Reading: August 5, 2024  
Published: August 8, 2024  
Adopted: August 8, 2024

**CITY OF DEADWOOD  
ORDINANCE 1402**

**NOW THEREFORE**, be it ordained by the City Commission of the City of Deadwood, in the State of South Dakota, as follows:

**SECTION 1:**            **AMENDMENT** “15.32.140 Allowed Signs Not Subject To Permit” of the Deadwood Municipal Code is hereby *amended* as follows:

A M E N D M E N T

15.32.140 Allowed Signs Not Subject To Permit

- A. The following signs are allowed within the city boundaries without being required to have a permit. All applicable provisions of this chapter shall apply other than the requirement for the sign permit and the sign permit fee. These signs shall not be counted against the total allowable sign area or total number of signs permitted for the premises.
1. Temporary, nonilluminated signs indicating the availability for sale, rent or lease of the specific lot, building or portion of a building on which the sign is displayed, provided that such signs do not exceed five square feet in area and four feet in height, and are limited to one such sign per lot, building, dwelling or business unit are allowed without a permit. Such signs shall not remain in place more than seven days after sale or rental of the subject property.
  2. Signs required or specifically authorized for a public purpose by any law, statute or ordinance are allowed without a permit; such signs may be of any type, number, area, height above grade, location or illumination required or authorized by law, statute or ordinance under which such signs are required. No such sign shall be placed in a public right-of-way unless specifically required or authorized by law, statute or ordinance, and except for warning or informational signs or barricades of a temporary nature, such signs shall be permanently affixed to the ground, a building or other structure. Such signs shall not exceed the minimum number required to accomplish the purpose.
  3. Signs commonly associated with and limited to information and directions related to the permitted use on the lot on which the sign is located are allowed without a permit provided that each such sign does not exceed one square foot in total area, is not directly illuminated, and contains no advertising.

This category shall be interpreted to include such signs as “no smoking,” “rest rooms,” “no solicitors,” “self-service,” “vacancy,” “fire exit,” and similar information signs.

4. Credit card advertisements or trade association emblems that are displayed together are allowed without permit, provided that the total area of all such

- signs combined does not exceed one square foot; such signs shall be displayed floating on window or door surfaces.
5. Signs erected by a federal, state, or local government agency directing persons to a building site or activity of historical significance are allowed without permit, provided that each such sign shall not exceed four square feet in area and shall not exceed six feet above grade in height. Such signs may be erected in a public right-of-way, with approval of the code official, or on private property, with the permission of the property owner.
  6. An alarm device sign used to identify the company, person, representative, or agency to be contacted in case of activation is allowed without permit provided the area of each such sign shall be limited to one square foot.
  7. Private traffic directional signs guiding or directing vehicular or pedestrian traffic onto or off a lot or within a lot are allowed without permit, provided that the area of each such sign does not exceed three square feet per sign face in area and six feet above grade in height, the sign does not contain any advertising or trade name identification and the sign is not illuminated or is indirectly illuminated. The erector of such signs shall be certain to consider pedestrian and vehicular clearances in placement of all signs.
  8. No permit shall be required for text or copy changes on conforming or legal nonconforming signs specially designed to permit changes of text or copy thereof, provided that no structural changes are made to the sign, and provided that the name of the business, letter style, colors and materials are not changed.
  9. Signs that are not visible beyond the boundaries of the lot or parcel on which they are located or from any public thoroughfare or right-of-way are allowed without permit, except that such signs shall be subject to the regulations of the Building Code adopted by the city and the Electrical Code adopted by the South Dakota Electrical Commission.
  10. Official government notices and notices posted by government officers in the performance of their duties, and government signs to control traffic, identify streets, warn of danger or perform other regulatory purposes are allowed without permit. Identification or bulletin board signs accessory to government buildings or other facilities shall not be exempt from the provisions of this chapter.
  11. Temporary or permanent signs erected by the city, public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices are allowed without permit.
  12. Signs displayed on motor vehicles that are being operated or stored in the normal course of a business, such as signs indicating the name of the owner or business, which are located on delivery trucks, rental trucks and the like are allowed without permit, provided that the vehicles are parked or stored in areas appropriate to their use as vehicles. Stored vehicles cannot be illuminated.
  13. Cornerstones, commemorative tablets, and the like, when carved into stone, concrete, bronze, or other permanent material and made an integral part of a

building or structure, provided that such markers have been approved by the historic preservation commission are allowed without permit.

- 14. Flags, when the following criteria are met:
  - a. One flag per each twenty-five (25) lineal feet of primary frontage. Corner buildings shall count one, not both, street frontages;
  - b. There shall be a maximum of one flag per pole unless allowed per US Flag Code;
  - c. Flags for commercial use require a permit.
  - d. Flagpoles may be mounted on fronts of buildings as an outrigger pole, not to exceed a forty-five (45) degree angle from vertical (pointed upward), and ten (10) feet in length, with a maximum flag size of four feet in width and six feet in length;

Flagpoles may, as an alternative to an outrigger pole, be mounted on a roof or parapet-mounted flagpole. Such flagpole shall not be greater in length than twenty (20) feet or two-thirds the height of the building as measured from sidewalk to roof, whichever is less. Flag size shall follow the chart below.

Ground-mounted flagpoles shall not exceed the length as indicated in the chart below, nor shall flag size.

Height of Building	Height of Pole	Size of Flag
1 to 2 stories	20'-0"	4' wide, 6' long
3 to 5 stories	25'-0"	4' wide, 6' long

- e. Publicly owned properties shall be exempt from the provisions of this subsection.
- 15. Signs advertising a candidate for public office, or signs advertising issues in a public election are allowed without a permit providing that the sign be displayed no sooner than ~~thirty (30)~~ ten (10) days before ~~the election~~ the day absentee voting begins and the sign shall be removed seven days following the election. Signs may not be displayed on public property and shall be compliant with City of Deadwood Ordinance 1244, codified as Section 2.04.015, Campaign Finance Requirements. A sign shall not exceed three square feet in area, and shall not exceed four feet in height. The materials for the sign may be wood, pasteboard, metal or other like materials. Neon, light strings, pennants, reflective paint or anything disallowed in Section 15.32.130 may not be used for such signs.
- 16. Temporary Sign, Construction. A temporary sign indicating the name of architects, engineers, contractors and similar persons or firms involved in the design, construction, or repair of a structure or project, provided that such signs do not exceed five (5) square feet in the area and four (4) feet in height,

and are limited to one (1) such sign per lot, building, dwelling or business unit are allowed without a permit. Such signs shall not remain in place more than seven (7) days after completion of the project on the subject property.

(Ord. 1291 (part), 2019; Ord. 1285 (part), 2019; Ord. 1170 (part), 2012; Ord. 1105 (part), 2008; Ord. 1082 (part), 2007; Ord. 992 (part), 2002; Ord. 964, 2000; prior code § 26-301)

PASSED AND ADOPTED BY THE CITY OF DEADWOOD CITY COMMISSION

\_\_\_\_\_.

Presiding Officer

Attest

\_\_\_\_\_  
David Ruth Jr., Mayor, City of  
Deadwood

\_\_\_\_\_  
Jessica McKeown, Finance Officer,  
City of Deadwood



**CITY OF DEADWOOD  
ORDINANCE 1403**

**NOW THEREFORE**, be it ordained by the City Commission of the City of Deadwood, in the State of South Dakota, as follows:

**SECTION 1:****AMENDMENT** “17.08.010 Definitions” of the Deadwood Municipal Code is hereby *amended* as follows:

A M E N D M E N T

17.08.010 Definitions

As used in this title:

“Accessory” means subordinate or incidental to, and on the same lot or on a contiguous lot in the same ownership, as the building or use being identified or advertised.

"Accessory dwelling unit" means a separate and complete single housekeeping unit within a single-family dwelling unit. The single-family dwelling unit shall be owner occupied. See “dwelling, single-family.”

“Accessory use” means a use or building which:

- A. Is clearly subordinate to, customarily found in association with, and serves a principal use; and
- B. Is subordinate in purpose, area or extent to the principal use served; and
- C. Contributes to the comfort, convenience or necessity of the occupants, business enterprise or operation within the principal use served or is located on the same lot as the principal use.

“Adult education facility or service” means a vocational or academic educational use serving a clientele at least fifty (50) percent of which are individuals who are eighteen (18) years of age or older.

“Agency” means the city commission and any officer, employee, department, division or other agency of the city, including boards and commissions.

“Agriculture” means the science and art of the production of plants and animals useful to humans, including the preparation of the products for humans’ use and their disposal by marketing or otherwise. In this broad sense it includes farming, horticulture, forestry, dairying, etc.

“Alley” means a street or way within a block set apart for public use, vehicular travel and local

convenience to provide access to the rear or side of the abutting lots or buildings.

“Alteration” means any change to a resource because of construction, repair, maintenance or other means, except for maintenance and repairs which does not involve a change in design, material, color or outer appearance.

Alteration, Structural. “Structural alteration” means any change to a resource because of construction, repair, maintenance or other means, except for maintenance and repair which does not involve a change in design, material, color or outer appearance.

“Apartment house” means a residential building or a portion of a building containing three or more dwelling units for occupancy by three or more families living separately from each other.

“Appeal” means obtaining review of a decision, determination, order or failure to act pursuant to the terms of this title as expressly authorized.

“Appear on behalf of” means to act as a witness, advocate, or expert or otherwise to support the position of another person.

“Applicant” means the owner of record of a particular property; the lessee thereof with the approval of the owner of record in notarized form; or a person holding a bona fide contract to purchase a particular property, who makes application under this title.

“Approving agency” means the individual or agency which grants final approval to an applicant under this title.

“Appurtenances” mean:

- A. Architectural features not used for human occupancy, consisting of spires, belfries, cupolas or dormers; roof water storage tanks; silos; parapet walls; and cornices without windows; and
- B. Necessary mechanical equipment usually carried above the roof level having no more than twenty-five (25) percent roof coverage, including without limitation, chimneys, ventilators, skylights, antennas, microwave dishes and solar systems, and excluding wind energy conversion systems.

“Architectural projection” means any building projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including without limitation, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, awnings, pilasters and fascias, but not including signs.

“Automotive vehicle” means any vehicle, including every device in, upon or by which a person or property is or may be transported or drawn upon a public highway or any device used or designed for aviation or for flight in the air and upon which a specific ownership tax is imposed by the state of South Dakota, including without limitation, all motor vehicles, trailers, semi-trailers and aircraft, but excluding devices moved by human power or used exclusively upon stationary rails or tracks.

"Basement" means that portion of a building between floor and ceiling that is located partly below and partly above grade and has less than half its clear floor-to-ceiling height below the average grade of the adjoining ground abutting the exterior walls of the dwelling unit.

"Bathroom" means a room containing a toilet that may also contain a lavatory, shower or bathtub.

"Bed and breakfast establishment" means: any building ~~or buildings~~ run by an operator that is used to provide accommodations for a charge to the public, with at most five rental units for up to an average of ten guests per night and in which family style meals are provided as defined and permitted by the State of South Dakota and this Title.

"Beneficiary." (Reserved.)

"Berm" means a strip of mounded topsoil which provides a visual screen.

"Bicycle" means a vehicle propelled solely by human power through a chain, belt or gears and that has at least one wheel more than fourteen (14) inches in diameter.

"Bike path" or "bicycle path" means a separate path that has been designated for use by bicycles, by traffic control device or other sign and that is separated from the roadway for other vehicular traffic by open space or a barrier.

"Board of adjustment" means the city of Deadwood board of adjustment.

"Boarding house" means a residential building or structure, or portion thereof, other than a hotel, lodge or multi-family dwelling, providing temporary or long-term lodging for six or more guests, serving meals to those guests on a continuing basis for compensation and having a manager residing on the premises, but not providing a restaurant or bar, or accessory uses, such as recreational facilities, typically associated with a hotel or lodge.

"Brush." (Reserved.)

"Buffer zone" means an area between land uses providing fencing, berms, mounds, plant materials or any combination thereof to act as visual or noise buffers.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building area" means the maximum horizontal area within the outer perimeter of the building walls, dividers or columns at ground level or above, whichever is the greater area, including without limitation, courts and exterior stairways, but excluding:

- A. Uncovered decks, porches, patios, terraces and stairways all less than thirty (30) inches high; and
- B. The outer four feet of completely open, uncovered, cantilevered balconies that have a minimum of eight feet vertical clearance below.

“Building coverage” means the ratio of the total building area on a lot to the total area of the lot.

Building, Detached. “Detached building” means a building having no structural connection with another building.

“Building envelope” means that area on any lot on which a structure can be erected consistent with existing setback requirements and is defined by the setback lines applicable to that lot. For planned unit developments or other property that may not be subject to prescribed setback requirements, the building envelope is defined by a line running around the protected structures on the property eight feet from their exterior walls.

Building, Principal. “Principal building” means the building containing the primary use on the lot.

“Bulk requirements” means the combination of lot area, height, setbacks and floor area ratio set forth in this title.

“Business” means all activities in which a person engages or in which such person causes another to be engaged with the object of gain, benefit or advantage, whether direct or indirect.

“Camper” means a unit containing cooking or sleeping facilities that is designed to be loaded onto or affixed to the bed or chassis of a truck to provide temporary living quarters for recreational camping or travel use.

“Camping areas” means a platted parcel of land separately owned and developed for commercial use, offering to the traveling public overnight parking spaces for trailer campers and/or tent sites.

“Caretaker’s residence” means a dwelling unit which is used exclusively by either the owner, manager or operator of a principal permitted use and which is located on the same parcel as the principal use.

“Car wash” means a structure or portion thereof containing facilities for washing motorized vehicles, using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical devices.

“Cellar” means that portion of a building that is located partly or wholly below grade and has half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground abutting the exterior walls of the dwelling unit.

“Center” or “centerline” means an imaginary line that is equidistant from the boundaries of the street.

“Certificate of appropriateness” means a signed and dated document evidencing the approval of the historic district commission for work proposed by an applicant. The period for which such certificates are valid may be limited by the issuing commission.

"Certificate of occupancy" means a document issued by the city which states that the described portion of a building has been inspected for compliance with the requirements of the Building Code and division of occupancy and the use for which the proposed occupancy is classified.

"Change of use" means any change in use of land that requires additional parking under this title, whether or not such parking must actually be provided, or any initiation of or change to residential habitation of any portion of any structure, whether existing or new.

"Charitable organization" means any entity organized and/or operated in the city exclusively for religious or charitable purposes, no part of whose net earnings inures to the benefit of any private shareholder or individual.

"Church" means a building together with its accessory buildings and uses where persons regularly assemble for religious worship, such buildings being maintained and controlled by a religious body organized to sustain public worship.

Clinic, Dental or Medical. "Dental or medical clinic" means a building in which one or more physicians, dentists and allied professional assistants are engaged in carrying on their profession; the clinic may include a dental or medical laboratory, but it shall not include in-patient care or operating rooms for major surgery.

"Club (private) or lodge" means buildings and facilities intended to be used as a center of informal association for social, recreational or educational purposes for selective membership not open to the general public.

"Code enforcement officer" means any city employee or person employed under independent contract by the city who is appointed to enforce the laws of the city.

"Community center" means a facility maintained by a public agency or nonprofit community or neighborhood association for the social, recreational or educational needs of the community.

"Comprehensive plan" means the official document or elements thereof, adopted by the city, and intended to guide the physical development of the city or a portion thereof. Such plan may include maps, plats, charts, policy statements, etc.

"Condominium" means real property having more than one dwelling unit and the ownership of which consists of separate, divided, fee simple estates in individual air space units, together with an undivided fee simple interest in the common elements appurtenant to such units.

"Condominium conversion" means the transfer of ownership of less than the total number of dwelling units in a multiple dwelling unit structure, where the ownership interests created by the transfer of ownership, are in a number of dwelling units that is less than the total number of units in the structure in which the seller had an interest prior to the sale or, with respect to a mobile home park, the transfer of ownership of the mobile home park property so that it is jointly and severally owned by the owners of the mobile homes upon such property.

"Condominium unit" means a form of property ownership of airspace.

“Congregate care facility” means a facility for long-term residence exclusively by persons sixty (60) years of age or older, and which shall include, without limitation, common dining and social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways and doorways designed to accommodate wheelchairs, and the provision of social services for residents which must include at least two of the following: meal services, transportation, housekeeping, linen and organized social activities.

“Construction project” means the erection, installation, alteration, repair or remodeling of a building or structure upon real estate or any other activity for which a building permit is required under this code or an ordinance of the city.

“Contiguous” means a sharing of a common border at more than a single point of intersection and in such a manner that the shared boundaries are touching and not separated except by boundaries or private rights-of-way, watercourses or water bodies or other minor geographical divisions of similar nature running parallel and between the shared boundaries. Contiguity is not the mere touching of points at intersections.

“Crown spread.” (Reserved.)

“Cul-de-sac” means a local street, one end of which is closed and consists of a circular turn-around.

“Day care, large” means a facility that provides care for six or more children that are primarily present during daytime hours, and do not regularly stay overnight. Basic requirements for a large day care facility are: 1) Operator must comply with the standards of the state Fire Marshal relating to the subject of fire and life safety in large day care facilities; 2) The applicant shall be licensed by the State of South Dakota as a day care facility; 3) Applicant shall develop and distribute information to the day care clients stating the need not to disrupt the neighborhood when dropping off and picking up children; 4) Off-street parking shall be provided for employees of the day care facility; 5) Drop-off and pick-up areas are designated for clients.

“Day care, small” means a resident occupied dwelling that provides care for five or less children who do not reside in the dwelling, are present primarily during daytime hours, and do not regularly stay overnight. Basic requirements for a small day care facility are: 1) The caregiver must live in the residence and be the main care provider; 2) A fire extinguisher is provided onsite; 3) Smoke detectors are provided in appropriate areas. The building inspector performs an onsite inspection to insure the above items are provided; 4) Landowners within three hundred feet (300’) are notified of the use by first class mail; and 5) Fee for small day care facilities is fifty dollars (\$50.00) to cover administrative and mailing costs.

“Delicatessen” means an establishment where food is sold for consumption off-premises and no counters or tables for on-premises consumption of food are provided, but excludes groceries and supermarkets.

“Demolition” means the complete or partial removal of buildings, structures, objects or sites,

including appurtenances.

“Demolition by neglect” means improper maintenance or lack of maintenance of any resource which results in substantial deterioration of the resource and threatens its continued preservation.

“Developer” means any person who participates in any manner in the development of land.

“Development” means any human-made change to improved or unimproved real estate, including without limitation, building, repairing, replacing or expanding or enlarging but not maintaining a building or other structure or portion thereof, or mining, dredging, filling, grading, paving or excavation.

“Developmentally disabled person” means a person having cerebral palsy, multiple sclerosis, mental retardation, autism or epilepsy.

“Development permit” means any permit or authorization issued by the city as a prerequisite for undertaking any improvement to real property including, without limitation, building permits, planned unit developments, variances, height or conditional use permits and nonconforming permits.

District, Zoning. “Zoning district” means a section of the territory within the jurisdiction of the city for which uniform regulations governing the use of the land, the height, area, size and intensity of buildings is herein established.

“Drive-in restaurant” means a restaurant in which the patrons have the option of purchasing food or beverages from a window on the exterior of the building while seated in their vehicle, or where an order is taken by speakerphone, or where the patron dines in their automobile.

“Drive-in theater” means an outdoor theater for viewing movies, where individual speakers are provided to each automobile parking space, and the movie is normally viewed from within the automobile.

“Driver” means every person who drives or is in actual physical control of the steering, accelerating or braking controls of a vehicle or the rider of an animal. No person shall be deemed to be the driver or to drive because a vehicle is out of control except immediately following a collision not proximately caused by a traffic violation of such driver. A person dismounted from a bicycle, moped or motorcycle and pushing it on foot is a pedestrian, not a driver.

“Driveway” means that space or area of a lot that is specifically designated and reserved for the movement of motor vehicles within the lot or from the lot to a public street.

“Duplex” means a structure containing two dwelling units, each of which has direct access to the outside. All duplexes shall be required to install a water meter, if one has not been installed on the subject property.

“Dwelling” means a building or portion thereof, designed or used for residential occupancy. The term dwelling shall not be construed to mean motels, hotels, boarding houses, tourist homes or mobile homes except in a mobile home park.

Dwelling, Mobile Home. “Mobile home dwelling” means a single-family residential unit with all of the following characteristics:

- A. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower, bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems;
- B. Designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels;
- C. Arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like; and
- D. Designed for removal to and installation or erection on other sites.

A mobile home may include two or more units, separately towable, which when joined together shall have the characteristics as described above. For the purpose of this title, a mobile home shall not be deemed a single-family dwelling. The placement of such on a permanent foundation shall not be construed as creating a dwelling unit as elsewhere defined.

Dwelling, Modular Unit. “Modular unit dwelling” means a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location on a permanent foundation. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this title, a modular unit shall be deemed a single-family dwelling and shall not be deemed a mobile home.

In addition, to be recognized as a factory-built home, the unit must meet or exceed all of the following construction and aesthetic standards set forth by the city planning and zoning commission:

- A. The construction must meet HUD, FHA, and local building codes;
- B. The unit must have a perimeter frame consisting of an approved material, either wood or steel I-beam, which is connected to the permanent foundation;
- C. The unit must be no less than twenty-four (24) feet in width;
- D. The unit must meet standard exterior appearance not to be less than that of the existing housing in any given residential area.

Owners of such units must provide the planning and zoning commission with proof that the unit in question can meet these standards.

Dwelling Unit, Single-Family. “Single-family dwelling unit” means a detached residential



dwelling unit other than a mobile home, containing only one dwelling unit and not occupied by more than one family and not used for carrying on any commercial or business activity including providing housing for transient persons.

Dwelling Unit, Multiple-Family. “Multiple-family dwelling unit” means a dwelling containing three or more attached dwelling units, not including motels, boarding houses, tourist homes or mobile homes.

“Easement” means the authorization by a property owner of the use by another and for a specified purpose of any designated part of that owner’s property.

“Efficiency living unit” means a dwelling unit that contains a bathroom and kitchen and does not exceed a maximum floor area of four hundred (400) square feet.

“Engineer” means a professional who is registered with the State Engineering and Architectural Department as a professional engineer.

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

“Essential municipal or public utility services” means distribution, collection, communication, supply or disposal systems, including without limitation, poles, wires, transformers, disconnects, regulators, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories that are reasonably necessary for public utilities for the city to furnish adequate service or for the public health, safety, or welfare.

“Excavation” means the removal of surface vegetation or the excavation of more than ten (10) cubic yards of soil in a one-year period.

“Expansion or enlargement of a structure” means any addition of an exterior wall to the structure or any addition to the floor area of the structure, whether under, at, or above grade, and whether or not the external dimensions of the structure are changed.

“Expansion to an existing manufactured home park or manufactured home subdivision” means the preparation of additional sites by the construction of facilities for servicing manufactured homes, including without limitation, installation of utilities, final site grading, pouring of concrete pads or construction of streets.

“Exterior features” means and includes, but is not limited to, the color, kind and texture of building materials and the type and style of windows, doors and appurtenances.

“Extractive industry” means an industry that removes natural resources, including without limitation, precious metals, oil, gas, coal, sand and gravel.

“Facilities” means all structures and equipment and all uses of land that are made in conjunction with or that are related or incidental to the construction, installation, or use of the

structures and equipment necessary to contain and control storm water including, without limitation, conduits, channels, bridges, pipes and detention ponds.

“Factory-built home” means the same as “Dwelling, modular unit.”

“Family” means one or more persons occupying a premises and living together as a single housekeeping unit, subject to a limit of not more than three persons eighteen (18) years of age or over who are not related by blood, marriage or legal adoption.

“Fence” means a freestanding structure of metal, masonry, wood or any combination thereof resting on, or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

“Festival” means any fair, festival or similar activity where patrons are charged admission or other fees for the privilege of watching or participating in entertainment, including, but not limited to, music shows concerts and revivals.

“Floor area” means the total square footage of all levels included within the outside walls, as measured from the exterior face of the exterior walls of a building or portion thereof, but excluding courts and uninhabitable areas below the first floor level.

“Floor area ratio (FAR)” means the ratio of the floor area of a building to the area of the lot on which the building is situated.

“Food” means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

Foundation, Permanent. “Permanent foundation” means a support structure for a building, wall or fence which is capable of supporting the weight, extends to below frost depth, is capable of resistance to wind uplift of the highest recorded winds in the area and includes but is not necessarily limited to, concrete caisson/grade beam, caissons and spread footer types.

Frontage, Building. “Building frontage” means the horizontal, linear dimension of that side of a building that abuts a street, a parking area, a mall or other circulation area open to the general public and that has either a main window display of the enterprise or a public entrance to the building; in industrial zone districts, a building side with an entrance open to employees is a building frontage; where more than one use occupies a building, each such use having a public entrance or main window display for its exclusive use is considered to have its own building frontage, which is the front width of the building occupied by that use.

Frontage, Street. “Street frontage” means the linear frontage of a lot or parcel abutting a private or public street that provides principal access to or visibility of the premises.

“Funeral chapel” means a building used primarily for human funeral services.

“Funeral home” means a building or part thereof used for human funeral services. Such building may contain space and facilities for:

- A. Embalming and the performance of other services used in the preparation of the dead for burial;
- B. The performance of autopsies and other surgical procedures;
- C. The storage of caskets, funeral urns and other related funeral supplies; and
- D. The storage of funeral vehicles, but shall not include facilities for cremation.

For the purpose of this title, where a funeral home is permitted, a funeral chapel shall also be permitted.

“Gaming establishment” means an establishment so licensed for gaming activity under the laws of the state of South Dakota.

“Garage” means an accessory building or part of a principal building used only for the storage of passenger vehicles in operating condition as an accessory use and having no provision for repairing or servicing such vehicles for profit.

Garage, Private. “Private garage” means an enclosed, detached or semi-detached building used principally for the shelter of motor vehicles which are owned by persons occupying the dwelling unit which the garage is intended to serve.

Garage, Storage. “Storage garage” means an enclosed building for the storage and care of personal property on a commercial basis.

“Garbage” means putrescent animal or vegetable waste resulting from the preparation, cooking and serving of food or the storage or sale of product.

“Garbage container” means a metal or other nonabsorbent container, which shall be equipped with a tightly-fitting metal or nonabsorbent lid, or sealed plastic garbage bags, but does not include incinerators or ash pits.

“Gasoline service station” means premises on which the principal use is the retail sale of gasoline, oil or other motor vehicle fuel, which may include, as an accessory use only, facilities for polishing, greasing, washing, or otherwise cleaning, servicing, or repairing motor vehicles, but does not include liquefied petroleum gas distribution facilities.

“General circulation” means delivered to a substantial number of residences in the city and also otherwise made available for purchase or distribution.

“Governing body” means the city commission.

“Governmental facility” means a municipal, county, state or federal structure, building or use.

“Grade” means the average elevation of the finished ground level at the center of all walls of a building. When walls are parallel to and within five feet of a sidewalk, “grade” means the sidewalk level.

“Group care facility” means a facility providing custodial care and treatment in a protective

living environment for persons residing voluntarily or by court placement, including without limitation, correctional and post-correctional facilities, drug or alcohol abuse centers, juvenile detention facilities and temporary custody facilities.

“Group home for the developmentally disabled” means a state-licensed facility for the exclusive use of eight or fewer developmentally disabled persons.

“Habitable room” means a room or enclosed floor space used, intended to be used or designed to be used for living, sleeping, eating or cooking and excludes bathrooms, toilet compartments, closets, halls and storage places.

“Height of building” means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of an mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following; whichever yields a greater height of building:

- A. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- B. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in subsection 1 of this definition is more than ten (10) feet above lowest grade;
- C. The height of a stepped or terraced building is the maximum height of any segment of the building;
- D. The city planner may approve additions of appurtenances to buildings causing a building height to exceed the allowed height if the following standards are met:
  1. A functional need is established;
  2. The functional need cannot be met with an appurtenance less than thirty-five (35) feet in height above the ground; and
  3. Visible material and colors are compatible with the building to which the appurtenance is attached;
- E. No appurtenance may have useable floor area except for mechanical equipment installations; have more than twenty-five (25) percent coverage of the roof area of the building; or be more than sixteen (16) feet in height;
- F. All mechanical equipment shall be screened from view, regardless of the height of the building, unless in the opinion of the city planner, such screening conflicts with the function of the mechanical equipment. Screening shall be an integral part of the building design.

“Historic district commission” means the Deadwood historic district commission established by virtue of SDCL 1-19B-38, pursuant to Ordinance No. 777.

“Historic preservation commission” means the Deadwood historic district commission established by virtue of SDCL 1-19B-2, pursuant to Resolution 1987-10.

“Historical resource” means a building, structure, site, or object fifty (50) years of age or older

related to the community's history, architecture, archeology, engineering and/or culture.

“Home occupation” means a business, occupation or trade conducted entirely within a residential building or accessory structure for gain or support by a resident of the dwelling, and no other, which:

- A. Is clearly incidental and secondary to the residential use of the building;
- B. Does not change the essential character of the use;
- C. Employs no more than one person who is a nonresident of the building;
- D. Operates pursuant to a valid occupational license for the use held by the resident of the dwelling unit;
- E. Is confined to no more than twenty-five (25) percent of the total floor area of the dwelling;
- F. Does not advertise, display or otherwise indicate the presence of the home occupation on the premises other than provided by the city's sign ordinance (codified in Chapter 15.32 of this code) and any other amendments thereto;
- G. Does not store outside of the dwelling any equipment or materials used in the home occupation; and
- H. Provides off-street parking to accommodate the needs of the home occupation.

“Hospital” means any building or portion thereof licensed as a hospital by the South Dakota Department of Health and used for diagnosis, treatment, surgery, and care of human ailments, including the usual and customary accessory uses and ancillary offices of a hospital.

“Hostel” means a facility for resident of under one month that provides simple dormitory or sleeping rooms and common rooms for cooking, meeting, recreational and educational use; that is chartered or approved by the International Hostel Federation or its national or regional affiliates, or similar organizations; and that is supervised by resident house-parents or managers who direct the guests' participation in the domestic duties and activities of the hostel.

“Hotel room, motel room or other accommodation” means any room or other accommodation in any hotel, apartment-hotel, motel, guest house, trailer court or any such similar place to any person who for a consideration uses, possesses or has the right to use or possess such room or other accommodation for a total continuous duration of less than one month.

“House museum” means an organized and permanent nonprofit and for-profit institutions, essentially educational or aesthetic in purpose, with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regular schedule.

Activities and services, standard to augment the house proper include an orientation area where visitors are introduced to the house and where they pay a fee, buy a ticket or turn in tickets purchased in another location. Traditionally, such facilities also include space for public coat storage, offices, artifact storage, conservation and exhibit preparation, volunteer facilities, archives, maintenance storage, and museum shop storage/support, rental of the facility and site.

Illumination, Direct. “Direct illumination” means lighting by means of an unshielded light

source, including neon tubing, which is effectively visible as part of the sign, where light travels directly from the source to the viewer's eye.

**Illumination, Indirect.** "Indirect illumination" means lighting of the surface by light source that is directed at the reflecting surface in such a way as to illuminate the sign from the front or a light source that is primarily designed to illuminate the entire building facade on which a sign is displayed, but does not include lighting that is primarily used for purposes other than sign illuminating, including without limitation, parking lot lights or lights inside a building that may silhouette a window sign but that are not primarily installed to serve as inside illumination of a sign.

**Illumination, Internal.** "Internal illumination" means lighting by means of a light source that is within a sign having a translucent background and silhouettes opaque letters or designs or that is within letters or designs that are themselves made of translucent material. This term shall also extend to and include opaque letters or designs set out from a building or sign face and lit by illumination from behind the letters.

**"Impervious surface"** means those surfaces which generally do not absorb water. For the purposes of this title, they consist of buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt.

**"Improvements"** means street grading and surfacing, curbs and gutters, sidewalks, water mains and lines, sanitary and storm sewers, culvert, bridges and other related utilities.

**"Indoor amusement establishment"** means a commercial operation open to the public without membership requirements, including without limitation, bowling alleys, indoor arcades, movie theaters, pool halls and skating rinks.

**"Intersection"** means the area embraced within the prolongation or connection of the lateral curblines of two streets that join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict, whether or not one such street crosses the other, but the term does not include the junction of any alley with a street. If a street includes two roadways thirty (30) feet or more apart, every crossing of each roadway of such divided street by an intersecting street is a separate intersection. If such intersecting street also includes two roadways thirty (30) feet or more apart, every crossing of such streets is a separate intersection. The farthest applicable points shall be used when measuring.

**"Junk"** means any manufactured goods, appliance, fixture, furniture, machinery, motor vehicle or trailer that is abandoned, demolished, discarded, dismantled, or so worn, deteriorated, or in such a condition as to be generally unusable in its existing state, including without limitation, scrap metal, scrap material, waste, bottles, tin cans, paper, rubble, boxes, crates, rags, used lumber, building materials, motor vehicles and machinery parts, and used tires.

**"Junk yard"** means a building, structure, or parcel of land or portion thereof, used for the collection, storage, dismantling, salvaging, demolition or sale of junk on the premises for more

than one week, but excludes such uses within enclosed buildings.

“Landmark” means a building, structure, object or site so designated by the historic preservation commission, or declared by the South Dakota Historical Preservation Center to be a contributing feature to a local, state or nationally registered historic district.

“Landsaped area” means any land set apart for planting grass, shrubs, trees or similar living materials, including without limitation, land in an arcade, plaza or pedestrian area, and of which fences and walls may be a part.

“Landscaping.” (Reserved.)

“Land surveying” means the locating, establishing or relocating of any land boundary line or the locating of any United States government, state, county, township, municipal or other governmental land survey lines of any public highway, street or road.

Land Surveyor, Registered. “Registered land surveyor” means any land surveyor registered in good standing and legally authorized to practice land surveying.

“Legal description” means a description of real property by lots, blocks, subdivision, or metes and bounds, but excludes an assessors tract number.

“Light source” means neon, fluorescent, or similar tube lighting, an incandescent bulb, including the light-producing elements therein, and any reflecting surface that, by reason of its construction or placement, becomes the light source.

"Lodging establishment" means any building or other structure and property or premises kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to two or more transient guests. The term includes hotels, motels, cabins, bed and breakfast establishments, speciality resorts, lodges, vacation home establishments, dude ranches, and resorts.

“Lot area” means the total horizontal area included within the lot lines of a lot.

Lot, Building. “Building lot” means a parcel of land, including without limitation, a portion of a platted subdivision, that is occupied or intended to be occupied by a building or use and its accessory buildings and uses, together with the yards required under the provisions of this code; that has not less than the minimum area, usable open space, building area and off-street parking spaces required by this code for a lot in the district in which such land is situated; that is an integral unit of land held under unified ownership in fee or co-tenancy or under legal control tantamount to such ownership; and that is precisely identified by a legal description.

Lot, Corner. “Corner lot” means a lot situated at the junction of and abutting on two or more intersecting streets.

“Lot coverage” means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

“Lot depth” means the average horizontal distance between the front lot line and the rear lot line of a lot.

“Lot interior” means any lot, including a through lot, other than a corner lot.

Lot Line, Front. “Front lot line” means a street line which forms the boundary of a lot or in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of or approach to the main building. On a corner lot, the shorter street line shall be deemed to be the front lot line, regardless of the location of the principal entrance or approach to the main building.

“Lot of record” means a lot, if part of a subdivision, the plat of which has been recorded in the office of the register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the register of deeds of Lawrence County, South Dakota.

Lot, Platted. “Platted lot” means a lot that has been subdivided pursuant to a legal subdivision approval process and is precisely identified by reference to a block and lot.

Lot, Through. “Through lot” means an interior lot but not a corner lot, abutting two or more public streets, but not including an alley.

“Lot width” means the distance between side lot lines measured at the front building line.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement), except that an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

“Maintenance” means the replacing, repairing or repainting of a portion of a sign structure, periodic changing of bulletin board panels or renaming of copy that has been made unusable by ordinary wear and tear, by nature or by accident.

“Mobile home park” means a tract of land of a minimum area of forty thousand (40,000) square feet, wherein, mobile homes as defined are intended to be placed, located and maintained for occupancy and includes accessory buildings and improvements. The term “mobile home park” does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of inspection and sales.

“Mobile home space” means a plot of ground within a mobile home park designed for the accommodation of one mobile home and its accessory structures.

“Motor vehicle” means any self-propelled vehicle other than a moped.

“New construction” means a structure or portion thereof for which the start of construction occurred on or after January 1, 1989.



“Nonconforming building” means any building that does not conform to the requirements of this title, unless the nonconformity was approved as part of a planned unit development, as a second principal building on a lot, or as a variance.

“Nonconforming lot” means any lot that does not conform to the minimum lot area or frontage upon a required public street, unless the nonconformity was approved as part of a planned unit development.

“Nonconforming use” means a building, structure or use of land existing at the time of the enactment of the ordinance codified in this title which does not conform to the use regulations of the district in which it is located.

“Notice” or “legal notice” means any requirement for informing a person or persons, a segment of the public, or the public generally. A notice required to be published may be published in any newspaper of general circulation unless otherwise required by this code or an ordinance of the city.

“Nursing home” means any institution or facility defined as such for licensing purposes under South Dakota law or pursuant to the rules and regulations for nursing homes and homes for the aged by the State Department of Health, whether proprietary or nonprofit, including, but not limited to nursing homes owned or administered by the federal or state government or an agency or political subdivision thereof.

“Object” means a thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

“Occupant” means any person living in, sleeping, possessing, or otherwise using any land, building, or part thereof.

“Office” means the principal use of a room(s) for the conduct of business by persons, including without limitation, accountants, architects, attorneys, consultants, engineers, insurance salespeople, investment consultants, real estate brokers or therapists, where there is no display of merchandise and the storage and sale of merchandise is clearly incidental to the service provided, but excluding medical or dental clinics or offices.

Office, Accessory. “Accessory office” means an office subordinate to, a necessary part of and in the same building with the principal business, commercial or industrial use, including without limitation, administrative, record-keeping, drafting and research and development offices.

“Ordinance” as used in this title means a permanent legislative act of the governing body of a municipality within the limits of its power.

“Owner” means a person, as defined by this code, who, alone, jointly or severally with others, or in a representative capacity (including without limitation, an authorized agent, executor, or trustee) has legal or equitable title to any property in question.

“Parcel” means the area within the boundary lines of a development.

“Parking lot” means an area, not within a building or other structure, where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. A parking lot shall include a motor vehicle display lot and a commercial parking lot.

“Party to a hearing” means any interested person who requests a hearing, appears at a hearing or submits a written entry of appearance at or before a hearing.

“Pawnbrokers” means any person who loans money on deposit or pledge of personal property or other thing of value or who deals in the purchasing of personal property or other thing of value on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property and takes possession of the property so mortgaged, or any part thereof.

“Person” means a firm, association, organization or corporation as well as an individual.

“Personal service outlet” means an establishment that provides personal services for the convenience of the neighborhood, including without limitation, barber and beauty shops, shoe repair shops, self-service laundries, travel agencies, photographic studios and automatic teller machines.

“Place or event open to the public” means any place or event, the admission or access to which is open to members of the public upon payment of a charge or fee. This term includes without limitation, the following places and events when a charge or fee for admission to such places and events is imposed upon members of the public:

- A. Any performance of a motion picture, stage show, play, concert, or other manifestation of the performing arts;
- B. Any sporting or athletic contest, exhibition or event whether amateur or professional;
- C. Any lecture, rally, speech or dissertation;
- D. Any showing, display or exhibition of any type, such as an art exhibition; and
- E. Any restaurant, tavern, lounge, bar or club, whether the admission is called a “cover charge,” “door charge,” or any other such term.

“Planning commission” means the city planning and zoning commission.

“Planting season.” (Reserved.)

“Plat” means a map or chart indicating the subdivision or resubdivision of land intended to be filed for record. Other forms include sketch plat, preliminary plat, final plat and replat.

“Possessor of real property” means a person not the owner of the property but who is responsible as lessee, caretaker or otherwise for its care and upkeep and is in control of the property.

“Preliminary construction acceptance” means the city’s acceptance of the developer’s or

subdivider's construction, installation and testing of public improvements and appurtenances thereto as conforming with city standards and defines the date on which the warranty period on such improvements commences.

“Premises” means only that property over which the owner or keeper has full possession and control. The unenclosed property of a condominium or townhouse or the common passageway, parking facility or unenclosed common yard of an apartment building or shopping center are not premises of an owner or keeper.

Principal Building. See “Building, principal.”

“Principal use” means the main use of land as distinguished from an accessory or subordinate use.

“Project approval” means a signed and dated document evidencing the approval of the historic preservation commission for work proposed by an applicant. The period for which such approvals are valid may be limited by the issuing commission.

“Property” means real, tangible and intangible personal property.

“Public entrance” means an entrance to a building or premises that is customarily used or intended for use by the general public. Examples of private entrances not intended for use by the general public are fire exits, special employee entrances and loading dock entrances.

“Public hearing,” unless otherwise specifically redefined, means a public hearing pursuant to a notice published, in an official newspaper of the city, at least ten (10) days prior to the date of such hearing which notice shall specify the general purpose, time and place of such hearing. Any such hearing, after publication may be continued, recessed or adjourned from time to time without any further publication or notice thereof.

“Public utility” means any person, firm, corporation, municipal department or board duly authorized to furnish and maintain installations for the supply of electricity, oil, gas, communications, transportation and water.

“Public way” means any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

“Real property, premises, real estate or lands” means lands, tenements and hereditaments.

Rear Yard. See “Yard, rear.”

“Recycling center” means an enclosed building used for storing junk and unenclosed premises on which junk is stored for one week or less.

“Rental property” means all dwellings, dwelling units and rooming units located within the city and rented or leased for any valuable consideration, but the term excludes dwellings owned by the federal government or the state of South Dakota or any of their agencies or political

subdivisions and facilities licensed by the state of South Dakota as health care facilities.

“Residential care facility” means a facility providing social services in a protective living environment for adults or children, including without limitation, group foster care homes; shelters for abused children or adults; nursing homes, intermediate care facilities; or residential care facilities licensed by the South Dakota Department of Health.

“Residential structure” means any structure that is used for the temporary or permanent residence of persons, including without limitation, a dwelling, a boarding house, a hotel, a motel and similar structures.

“Resolution,” as used in this title, means any determination, decision or direction of the governing body of a municipality of a special or temporary character for the purpose of initiating, effecting or carrying out its administrative duties and functions, under the laws and ordinances governing the municipality.

“Resource” means “Historical resource”.

“Restaurant” means an establishment provided with special space, sanitary kitchen, dining room equipment and persons to prepare, cook and serve, in consideration of payment, meals and drinks to guests.

“Roadway” means that portion of a street from curb to curb improved, designed or ordinarily used for vehicular travel. If a street includes two or more separate roadways, “roadway” refers to any such roadway separately, but not to all such roadways collectively.

“Roof” means the cover of any building, including the eaves and similar projections.

“Roof line” means the highest point on any building where an exterior wall encloses usable floor space (including roof areas for housing mechanical equipment) and the highest point on any parapet wall.

“Rooming house” means any building other than a hotel, cafe or restaurant where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is provided for generally one month or more, for three or more roomers not related to the head of the household by marriage, adoption or blood, up to the second degree of consanguinity.

“Rooming unit” means a type of housing accommodation that consists of a room or group of rooms for a roomer, arranged primarily for sleeping and study, and that may include a private bath but does not include a sink or any cooking device.

“Rubble” means large brush, wood, large cardboard boxes or part thereof, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked motor vehicle bodies or part thereof, scrap metal, bed springs, water heaters, discarded furniture, and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three feet or more in length, width, or breadth.

School, Elementary, Junior and Senior High. “Elementary, junior and senior high school” means any public or private school for any grades between first and twelfth which satisfies state compulsory education requirements.

“Service garage” means a building in which the principal use is performing major repairs to and the servicing of motor vehicles.

“Setback” means the minimum distance in linear feet measured on a horizontal plane between the outer perimeter of a structure and each of its lot lines. Where a building is to be erected on multiple platted lots, setbacks shall be measured from the boundaries of the parcel which shall be made up of the multiple lots considered as a whole.

“Shrub.” (Reserved.)

"Short-Term Rentals" means commercial use of a property for remuneration as defined under "Bed and Breakfast establishment", "Specialty resort", and "Vacation Home establishment" as defined in this Title.

“Sidewalk” means that portion of the sidewalk area paved or otherwise improved, designed or ordinarily used for pedestrians and every such walk parallel and adjacent to a roadway.

“Sidewalk area” means the area between the curb of a street and the adjacent property lines.

“Sign” means any writing, pictorial representation, decoration (including any material used to differentiate sign copy from its background), form, emblem, trademark, flag or banner or any other figure of similar character that:

- A. Is a structure or any part thereof (including the roof or wall of a building); or
- B. Is written, printed, projected, painted, constructed or otherwise placed or displayed upon or designed into a building, board, plate, canopy, awning, or vehicle or upon any material, object or device whatsoever; and
- C. By reason of its form, color, wording, symbol, design, illumination or motion, attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement or announcement. 17.08.010

Single-Family Dwelling. See “Dwelling, single-family.”

“Site” means a place where something was, is, or is to be located.

“Site plan” means a required submission, which is a detailed engineering drawing of the proposed improvements required in the development of a given lot.

“Solar Access, Obstruction Protected by Permit.” (Reserved.)

“Solar Collector.” (Reserved.)

“Solar Energy System.” (Reserved.)

“Solar Fence.” (Reserved.)

“Solar Noon.” (Reserved.)

“Sound condition and good repair” means freedom from defects that would endanger the health, safety and welfare of the occupants of the structure.

“Special population” means persons over the age of sixty (60), disabled persons, single parents, or the homeless.

"Specialty resort" means any bed and breakfast establishment (except a bed and breakfast establishment as defined in this Title), lodge, dude ranch, resort, building or buildings used to provide accommodations or recreation for a charge to the public, with no more than ten rental units for up to an average of twenty guests per night and in which meals are provided to only guests staying at the specialty resort as defined and permitted by the State of South Dakota and this Title.

"Stairway" means all stairwells and includes stair stringers, risers, treads, handrails, banisters and vertical and horizontal support.

“Start of construction” means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“State highway” means a street designated as part of the state highway system. Designation of the street as a state highway on any map published by the state or the city or marked as such by signs is prima facie evidence of such designation.

“Storm water” means any flow occurring during or following any form of normal precipitation and resulting therefrom.

“Street” means the entire width between the property boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and includes without limitation, alleys, or the entire width of every way declared to be a public highway by any law.

“Subdivider” means any person who participates in any manner in the dividing of land for the purpose, immediate or future, of sale or building development.

“Subdivision” means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development for residential, industrial, commercial or other use, but the term excludes any transaction that is exempt from subdivision regulation under the subdivision ordinance.

“Substantial improvement” means any repair, reconstruction or improvement of any structural element of a structure the cost of which, when added to the cumulative cost of such prior repairs, reconstructions and improvements equal or exceed fifty (50) percent of the market value of the structure in constant dollars either:

- A. Before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this title, “substantial improvement” begins when the first alteration of any structural wall, ceiling, floor or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure, and all such repairs, reconstructions, and improvements since the date of adoption of the ordinance codified in this title are aggregated. The term does not include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places or designated a local landmark or a contributing building in a local, state or national historic district.

“Tavern” means an establishment serving malt and vinous liquids for retail consumption on the premises.

“Temporary housing” means any mobile home, camper or other structure used for human shelter that is designed to be transportable and is not attached to the ground, to another structure, or to any utilities system.

“Tenant.” See “Occupant.”

“Townhouse” means a multi-unit dwelling in which the ownership of each dwelling unit consists of a separate fee simple estate on an individually platted lot, together with an undivided fee simple interest in the common elements, if any.

“Townhouse unit” means that part of a townhouse constituting a single dwelling unit.

“Traffic” means pedestrians, ridden or herded animals, and vehicles, either singly or together, while using any street for purposes of travel.

“Traffic control sign” means a sign on, above or adjacent to a street placed by a public authority to regulate, warn or guide traffic.

“Traffic control signal” means a device on, above or adjacent to a street placed by a public authority by which traffic is alternately directed to proceed and stop by means of the display of colored lights or symbols.

“Transaction” means any contract; any sale or lease of any interest in land, material, supplies or services; or any granting of development right, license, permit or application.

"Transient guest" means any person who resides in a lodging establishment less than four consecutive calendar weeks.

“Travel trailer” means a portable structure, mounted on wheels and designed to be towed by a motor vehicle, which contains cooking or sleeping facilities to provide temporary living quarters for recreational camping or travel.

“Tree.” (Reserved.)

"Undertaking" or "project" means any demolition of any building or structure or historic resource and any other action or contemplated action which requires a permit under any ordinance adopted by the city including the Building Code, as adopted and/or amended, by the city commission.

Use, Conditional. “Conditional use” means a use not allowed within a given district unless certain conditions are met. The conditional use must be a use which is desirable to the zone itself. The city may require substantial conditions to be met by the use to mitigate negative impacts. Example: private nursery school in a residential area. The use is desirable within the district, but the nature of the use is such that special precautions need to be taken to protect neighbors from undue traffic, noise and inconvenience.

“Use-by-right” means a use which is permitted in a given zoning district without having to show need or having specific conditions imposed to be allowed.

"Vacation home establishment" means any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than 14 days in a calendar year and is not occupied by an owner or manager during the time of rental as defined and permitted by the State of South Dakota and this Title. This term does not include a bed and breakfast establishment as defined in this Title.

“Valet parking” means a parking arrangement where an employee of a hotel/motel or public facility performs a service for the customers in which such employee parks the vehicle and returns it from a designated area.

Applicants requesting valet parking shall provide the legal description of the proposed site. The area being proposed must be site specific. The applicant shall provide a parking layout and a written statement addressing how the valet parking will be managed.

“Vehicle” means any device that is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks, but the term excludes devices used exclusively upon



stationary rails or tracks.

“Watercourse” means a portion of the floodway area functioning as a natural or improved channel carrying flows not constituting a flood, a stream, a creek, a pond, a slough, a gulch, an arroyo, a reservoir or a lake. The term, includes without limitation, established natural and human-made drainage ways for carrying storm run-off but does not include irrigation ditches.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

“Wind energy conversion system” means any machine that converts wind to another form of energy.

“Yard” means an open space between a building and the adjoining lot lines unoccupied and unobstructed by structures except for open steps and terraces and architectural appurtenances. A yard shall be measured as the shortest horizontal distance from the building to the adjacent lot line. This definition shall be construed to exclude parking in the setback areas in districts zoned R1 residential district and R2 multi-family residential district. Yards are normally classified as front yards, rear yards and side yards (see “Setback.”)

Yard, Front. “Front yard” means an open, unoccupied space on the same building site with a main building, extending the full width of the building site and situated between the street line and the front line on the building projected to the side lines of the building site. The depth of the front yard shall be measured between the front line of the building and the street line (see “Setback.”)

Yard, Rear. “Rear yard” means an open, unoccupied space on the same building site and situated between the rear line of the building site and the rear line of the building projected to the side lines of the building site. The depth of the rear yard shall be measured between the rear line of the building site and the rear line of the building (see “Setback.”)

Yard, Side. “Side yard” means an open, unoccupied space on the same building site with a main building, situated between the side line of the building and the adjacent side line of the building site and extending from the rear line of the front yard to the front line of the rear yard; if no front yard is provided, the front boundary of the side yard shall be the front line of the building site, and if no rear yard is provided, the rear boundary of the side yard shall be the rear line of the building site (see “Setback.”)

“Zoning administrator” means the person designated by the city commission to administer and enforce the provisions of this title.

“Zoning district” means an area(s) specifically designated within the limits of the city for which the regulations and requirements governing use, lot and size of building and premises are set forth.

“Zoning lot” means:

- A. A tract of land, either unsubdivided or consisting of two or more lots of record contiguous for a minimum of ten (10) feet, located within a singular block, which at the time of filing for a permit, is declared to be a tract of land to be treated as one zoning lot for the purposes of this title;
- B. A zoning lot, therefore, may or may not coincide with a lot as shown on the official city map, or on any recorded subdivision plat or deed;
- C. A zoning lot may be subdivided into two or more zoning lots, provided that all resulting zoning lots and all buildings thereon shall comply with all of the applicable provisions of this title;
- D. Where several contiguous lots are in single ownership, they may be lumped together and treated as a zoning lot for the purposes of the floor area ratio computation.

“Zoning map” means the zoning district map of the city, adopted as a part of this zoning title, as amended from time to time as provided herein.

"Zoning, Spot" or "Spot Zoning" is what results when a zoning ordinance creates a small island of property with restrictions on its use different from those imposed on the surrounding property.

(Ord. 1316, 2020; Ord. 1289, 2019; Ord. 1035 (part), 2005; Ord. 1026 (part), 2004; Ord. 1003, 2003; Ord. 952 (part), 1999; Ord. 940, 1998; Ord. 930 (part), 1997; Ord. 915 (part), 1996; Ord. 900 (part), 1995; Ord. 851 (part), 1993; Ord. 831 § 1.7, 1992)

**SECTION 2:**        **EFFECTIVE DATE** This Ordinance shall be in full force and effect from August 8, 2024 and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF DEADWOOD CITY COMMISSION

\_\_\_\_\_.

Presiding Officer

Attest

\_\_\_\_\_  
David Ruth Jr., Mayor, City of  
Deadwood

\_\_\_\_\_  
Jessica McKeown, Finance Officer,  
City of Deadwood

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC  
PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 578-2084



**Kevin Kuchenbecker**  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

---

**BOARD OF ADJUSTMENT  
STAFF REPORT  
CONDITIONAL USE PERMIT**

---

**Staff Report**

**Date:** July 15, 2024  
**To:** Board of Adjustment  
**From:** Kevin Kuchenbecker  
Planning, Zoning & Historic Preservation Officer  
**RE:** Conditional Use Permit – Dwelling Unit, Single Family

---

**APPLICANT(S):** Terry and Dawn Bahr

**PURPOSE:** Application for CUP – Construction of Dwelling Unit, Single Family

**ADDRESS:** 307 Cliff Street

**LEGAL DESCRIPTION:** Lot 1 revised of the subdivision of Tract E-1 formerly Lot 1 of the subdivision of Tract E-1 being a portion of Hillside Placer M.S. 749 located in the SE ¼ of Section 27, T5N, R3E, B.H.M. City of Deadwood, Lawrence County, South Dakota.

**FILE STATUS:** All legal obligations have been completed.

**ZONE:** CH – Commercial Highway

**STAFF FINDINGS:**

---

Surrounding Zoning:

North: CH – Commercial Highway  
South: CH – Commercial Highway  
East: CH – Commercial Highway  
West: CH – Commercial Highway

Surrounding Land Uses:

Highway  
Vacation Home Establishment  
Vacation Home Establishment  
Vacation Home Establishment

## **SUMMARY OF REQUEST**

---

The applicants have submitted a request for a Conditional Use Permit to construct a Dwelling Unit, Single Family in a CH – Commercial Highway zoning district. On April 24, 2024, a plat was recorded subdividing the existing single lot at 305 Cliff Street into two (2) separate lots. The new lot that was created has been assigned the address 307 Cliff Street. The owners of both 305 and 307 Cliff Street desire to construct a Dwelling Unit, Single Family at 307 Cliff Street.

## **FACTUAL INFORMATION**

---

1. The property is currently zoned CH – Commercial Highway.
2. The owners of the property operate a Vacation Home Establishment located on the neighboring lot of 305 Cliff Street. The intent of constructing a Dwelling Unit, Single Family at 307 Cliff Street is to provide them a home for personal use near their current Short-Term Rental location.
3. The subject property has access from 305 Cliff Street via a twenty-five (25) foot access easement.
4. The subject property is located within a CH – Commercial Highway zoning location on all sides.
5. The property is not located within a flood zone.
6. Adequate public facilities are available to serve the property.
7. The area is characterized by a mixture of businesses, hotels, campgrounds, and Vacation Home Establishments.

## **STAFF DISCUSSION**

---

The applicants have submitted a request for a Conditional Use Permit to construct a Dwelling Unit, Single Family and City regulations permit single family homes in CH – Commercial Highway zoning districts with an approved Conditional Use Permit. The applicants operate a Vacation Home Establishment on the neighboring lot, located at 305 Cliff Street, and desire a personal home near their existing business. The applicants are aware that due to the proximity of other Vacation Home Establishments in the area, the Dwelling Unit, Single Family that is to be constructed will be unable to be used as Vacation Home Establishment, to maintain compliance with City of Deadwood Ordinance 17.76.

The Deadwood Zoning Code 17.08 defines a Dwelling Unit, Single Family as the following:

**“Dwelling Unit, Single Family” means:**

A detached residential dwelling unit other than a mobile home, containing only one dwelling unit and not occupied by more than one family and not used for carrying on any commercial or business activity including providing housing for transient persons.

South Dakota Codified Law 10-13-39 defines a Dwelling Unit, Single Family as the following:

**“Dwelling Unit, Single Family” means:**

An owner-occupied single-family dwelling is a house, condominium apartment, residential housing consisting of four (4) or less family units, town house, housing cooperatives...which is assessed and taxed as a separate unit, including an attached or unattached garage and the parcel of land upon which the structure is situated is recorded in the records of the director of equalization. A person may only have one dwelling, which is the person’s principal place of residence as defined in Section 12-1-4, classified as an owner-occupied single-family dwelling.

- 1. Dwelling Units, Single Family may be permitted in the CH – Commercial Highway district under Chapter 17.40.030, Conditional Uses:

*The property is in a CH – Commercial Highway zoning district. The applicants plan to utilize the Dwelling Unit, Single Family as an owner-occupied residence, and to maintain compliance with Zoning Code 17.08 by not utilizing the property for any commercial or business activity, including that of providing housing for transient persons.*

**COMPLIANCE:**

---

- 1. The Zoning Office provided notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Section 10.10.B.
- 2. A sign was posted on the property for which the requests were filed.
- 3. Notice of the time and place of public hearing was published in the designated newspaper of the City of Deadwood.

**GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:**

---

In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

- A. The proposed use shall be in harmony with the general purposes, goals, objectives, and standards to the City Policy Plan, the ordinance, the district in which it is located, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the City of Deadwood.

*The City Comprehensive Plan encourages the development of a variety of housing types and to increase the supply of single-family housing units.*

- B. Whether or not a community need exists for the proposed use at the proposed location in light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and also within the immediate area of the proposed use: (a) the proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the proposed use.

*The subject area is zoned CH – Commercial Highway and is intended to provide locations for commercial uses, which require access to roads and highways, and substantial amounts of parking. The proposed use in the proposed location will not result in a detrimental over concentration of single-family homes.*

- C. The proposed use at this location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvement, public sites, or rights-of-way.

*The proposed use may not result in a substantial or undue adverse effect on adjacent properties, or the character of the property and the use would not alter the character of the district. To support a denial of a Conditional Use Permit on the grounds that it will cause increased traffic problems, there must be a high degree of probability that the increase would pose a substantial threat to the health and safety of the community.*

- D. Whether or not the proposed use increases the proliferation of non-conforming uses as well as previously approved Conditional Use Permits which are still in use, when influenced by matters pertaining to the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Policy Plan, this ordinance, or any other plan, program, map or ordinance adopted, or under consideration pursuant to official notice, by the city or other governmental agency having jurisdiction to guide growth and development.

For any conditional use, lot and performance standards shall be the same as similar type uses located in specific districts. The character and use of buildings and structures adjoining or near the property mentioned in the application shall be considered in their entirety.

*The proposed use would not increase the proliferation of non-conforming uses for the purposes of Dwelling Units for Single Family use.*

- E. Whether or not the proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this section.

*The proposed use will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services. Existing services will be made available onsite.*

### **CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:**

---

- A. Following the issuance of a Conditional Use Permit pursuant to the provisions of this ordinance, such permit may be amended, varied, or altered only pursuant to the standards and procedures established by this section for its original approval.
- B. The Board of Adjustments can revoke Conditional Use Permits, once granted, for cause after a hearing is held before them. Complaints seeking the revocation of such permit shall be filed with the Zoning Administrator and may be initiated by the Planning and Zoning Commission OR any three (3) residents within three hundred (300) feet of the property lines of which the application has been filed. All such revocation hearings shall be conducted in the same manner as for the Conditional Use Permit application hearings.
- C. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and/or on an annual basis and place additional stipulations to mitigate a problem.
- D. If the use permitted under the terms of a Conditional Use Permit has not been started within six (6) months of the date of issuance thereof, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.
- E. If the use permitted under the terms of a Conditional Use Permit ceases, for whatever reason, for a period of twelve (12) months, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use

or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

If approved, staff recommendations for stipulation(s):

1. The Conditional Use Permit allows for usage as an owner-occupied residence. Utilization of the property for any commercial or business activity, including that of providing housing for transient persons, is not permitted.
2. A lot or legal subdivision shall be allowed only one (1) Conditional Use Permit per ordinance 17.76.010.
3. City of Deadwood Building Inspector must inspect building to ensure it meets all applicable building codes.

**ACTION REQUIRED:**

---

1. Approved by Deadwood Planning and Zoning Commission on Wednesday, July 3, 2024.
2. Approval/Denial by Deadwood Board of Adjustment



Return Completed Form To:  
**Planning and Zoning**  
108 Sherman Street  
Deadwood, SD 57732



Questions Contact:  
**Kevin Kuchenbecker**  
(605) 578-2082 or  
kevin@cityofdeadwood.com

Application No. \_\_\_\_\_

### APPLICATION FOR CONDITIONAL USE PERMIT

**Application Fee: \$500.00**

**Applicants:** Please read thoroughly prior to completing this form. Only complete applications will be considered for review.

Name of Proposed Development: \_\_\_\_\_

Street Location of Property: 307 Cliff St, Deadwood SD 57732

Legal Description of Property: Lot 1 Revised of Tract E-1 Formerly Lot 1 of the subdivision of tract E-1 being a portion of Hillside Placer MS 749

Zoning Classification of Property: Highway Commercial

Name of Property Owner: Perry + Dawn Bahr Telephone: (602) 300 4350

Address: 15335 E Orchid Ln Gilbert AZ 85296  
Street City State Zip

Name of Applicant: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

**1. The following documents shall be submitted:**

- a. An improvement survey, including all easements,
- b. Development plan, including site plan with location of buildings, usable open space, off-street parking, loading areas, refuse area, ingress/egress, screening, proposed or existing signage, existing streets, and
- c. A written statement addressing the criteria for approval.

Uses of Building or Land: Personal residence

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Property Owner: Perry Bahr + Dawn Bahr Date: 6/11/24

Fee: \$ 500 Paid On 6/11/24 Receipt Number 194086

Legal Notice Published \_\_\_\_\_ Date: \_\_\_\_\_ Hearing Date: \_\_\_\_\_

PLANNING AND ZONING ADMINISTRATOR:			
Approved/P&Z Administrator:	Yes	No	Signature: _____ Date: _____
PLANNING AND ZONING COMMISSION:			
Approved/P&Z Commission:	Yes	No	Date: _____
DEADWOOD BOARD OF ADJUSTMENT:			
Approved/City Commission:	Yes	No	Date: _____

Reason for Denial (if necessary): \_\_\_\_\_

**From:** [Dawn Bahr \(602\)-418-4412](mailto:Dawn.Bahr@602-418-4412)  
**To:** [Leah Blue-Jones](#)  
**Subject:** Bahr written statement for 307 Cliff  
**Date:** Wednesday, June 12, 2024 10:41:21 AM

---

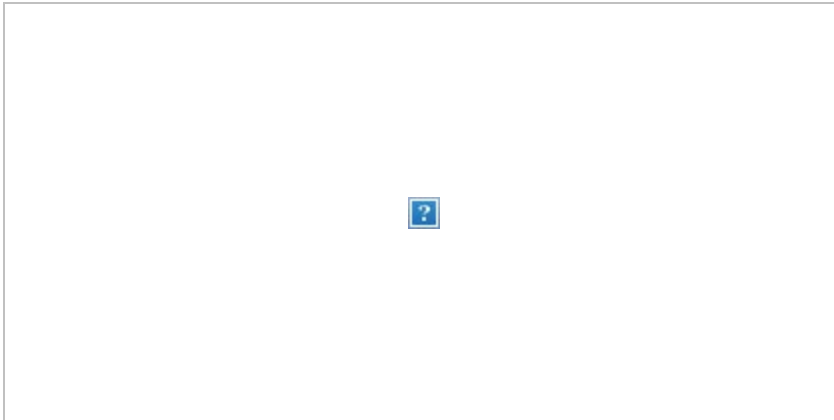
Good morning,

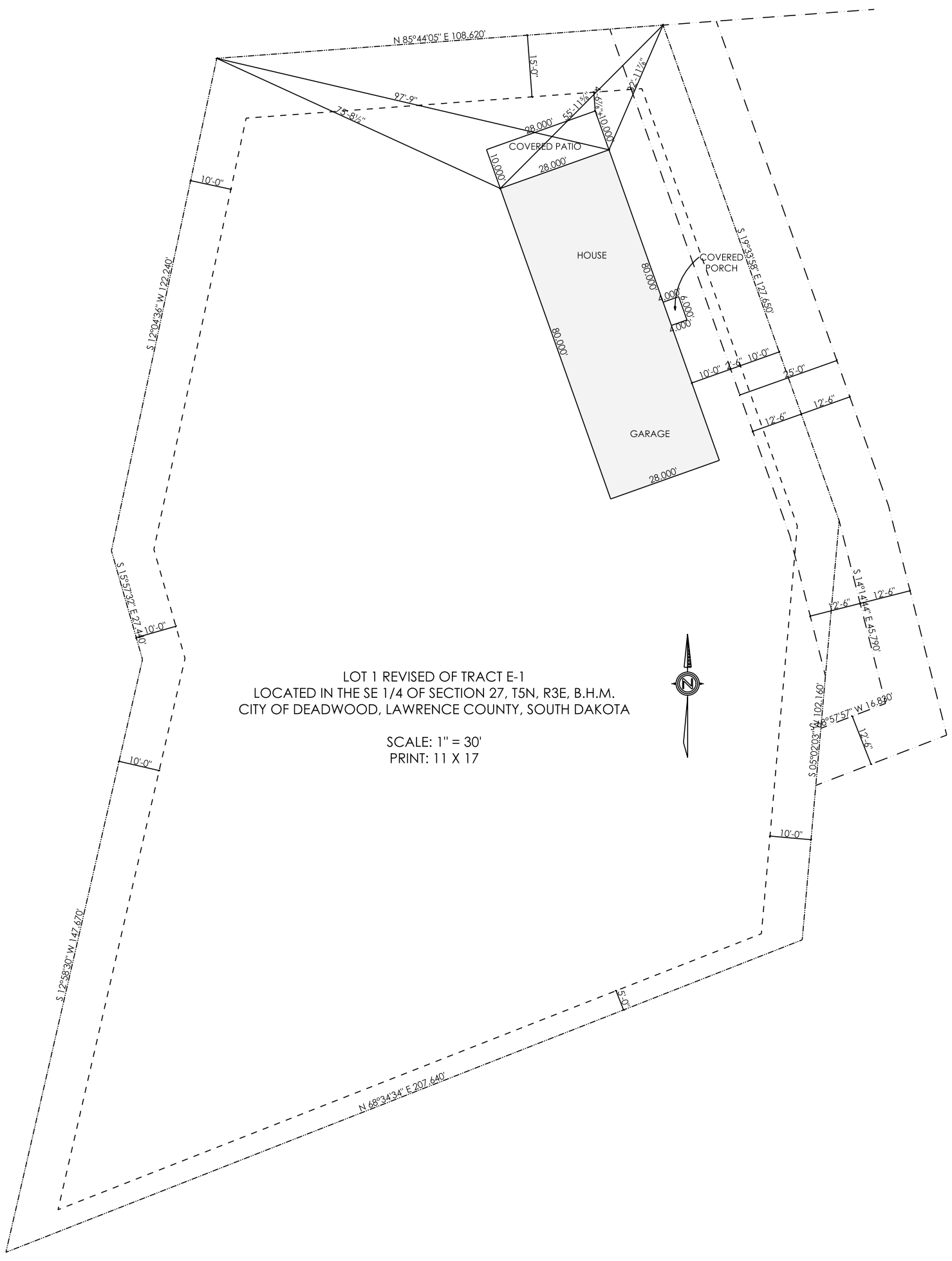
Please see Terry and Dawn's written statement

Terry and Dawn, who own a vacation rental here in Deadwood, are originally from South Dakota and have come to love the town and the Hills. They would like to construct a personal home at 307 Cliff Street so they can enjoy the property themselves and maintain 305 Cliff Street.

Thank you  
Terry and Dawn Bahr

--



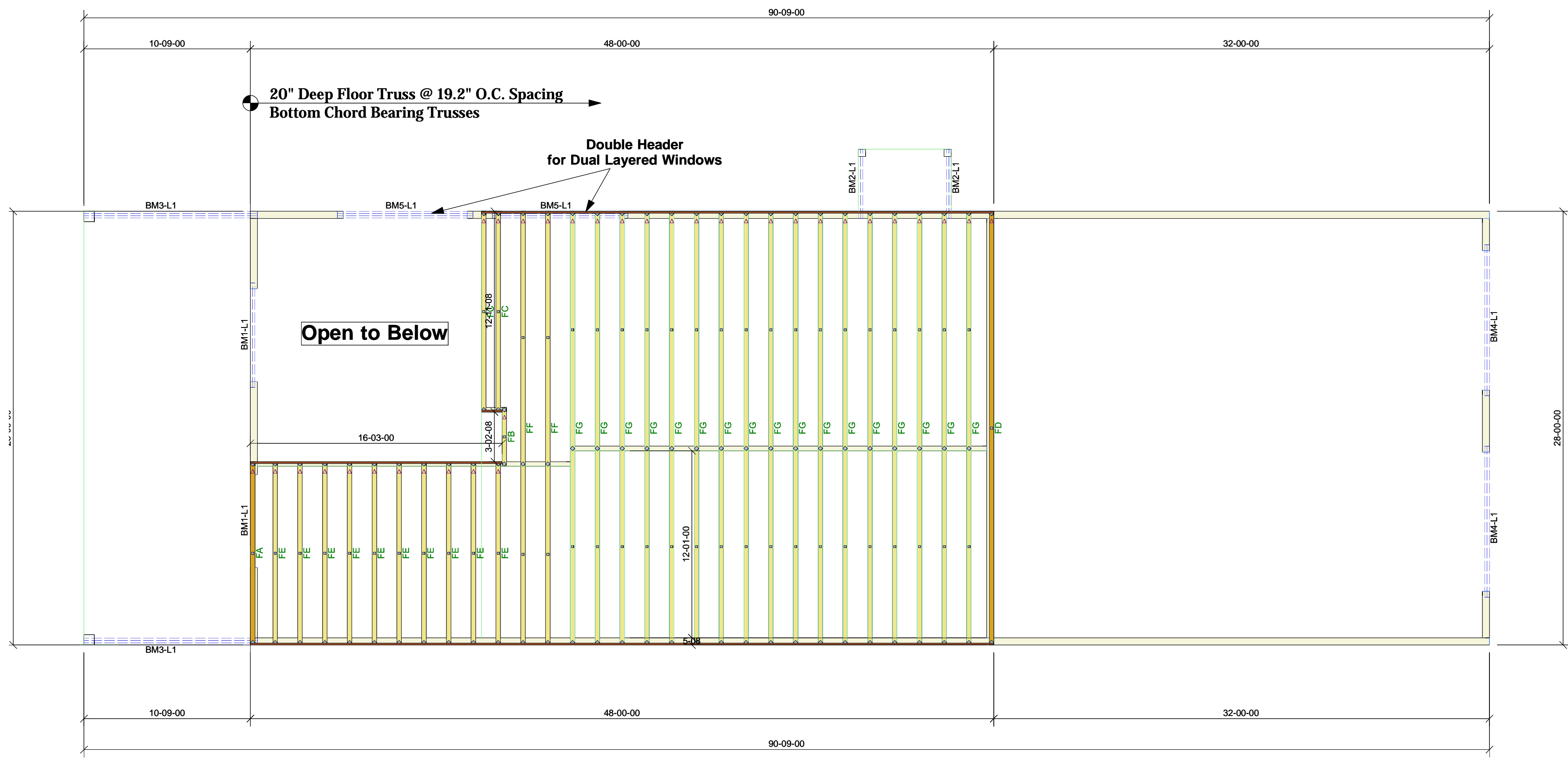


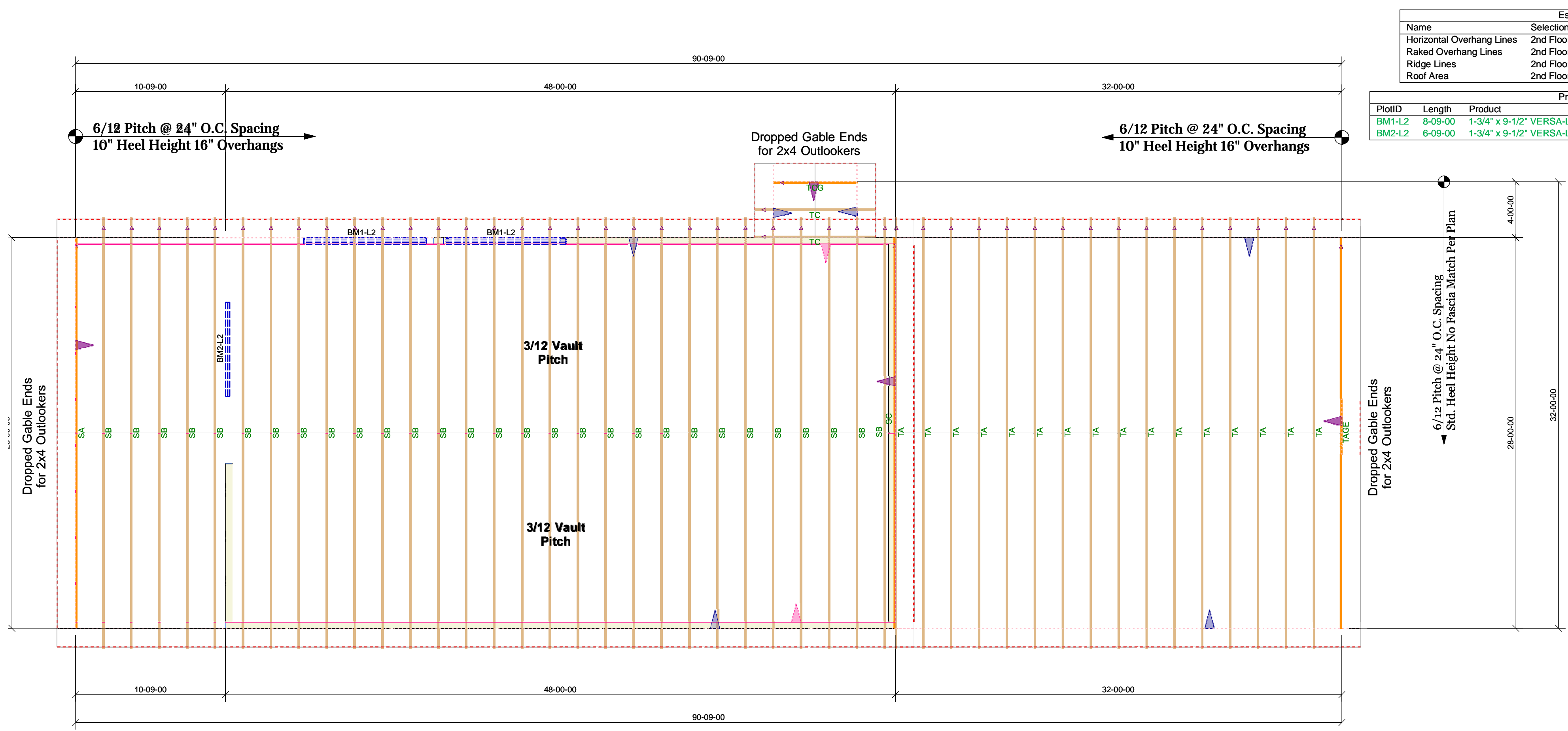
LOT 1 REVISED OF TRACT E-1  
 LOCATED IN THE SE 1/4 OF SECTION 27, T5N, R3E, B.H.M.  
 CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

SCALE: 1" = 30'  
 PRINT: 11 X 17



Products					
PlotID	Length	Product	Plies	Net Qty	Fab Type
BM1-L1	6-09-00	1-3/4" x 9-1/2" VERSA-LAM® LVL 2.1E 2800 DF	2	4	MFD
BM2-L1	4-05-08	1-3/4" x 9-1/2" VERSA-LAM® LVL 2.1E 2800 DF	2	4	MFD
BM3-L1	11-02-08	1-3/4" x 11-7/8" VERSA-LAM® LVL 2.1E 2800 DF	3	6	MFD
BM4-L1	9-09-00	1-3/4" x 11-7/8" VERSA-LAM® LVL 2.1E 2800 DF	2	4	MFD
BM5-L1	8-09-00	1-3/4" x 11-7/8" VERSA-LAM® LVL 2.1E 2800 DF	3	6	MFD





Estimation				
Name	Selection	Formula	Calculation	
Horizontal Overhang Lines	2nd Floor	Horizontal Overhang Lines	200.17 ft	
Raked Overhang Lines	2nd Floor	Raked Overhang Lines	123.18 ft	
Ridge Lines	2nd Floor	Ridge Lines	100 ft	
Roof Area	2nd Floor	Roof Area	3300 ft²	

Products					
PlotID	Length	Product	Plies	Net Qty	Fab Type
BM1-L2	8-09-00	1-3/4" x 9-1/2" VERSA-LAM® 2.0 2800 DF	3	6	MFD
BM2-L2	6-09-00	1-3/4" x 9-1/2" VERSA-LAM® 2.0 2800 DF	2	2	MFD

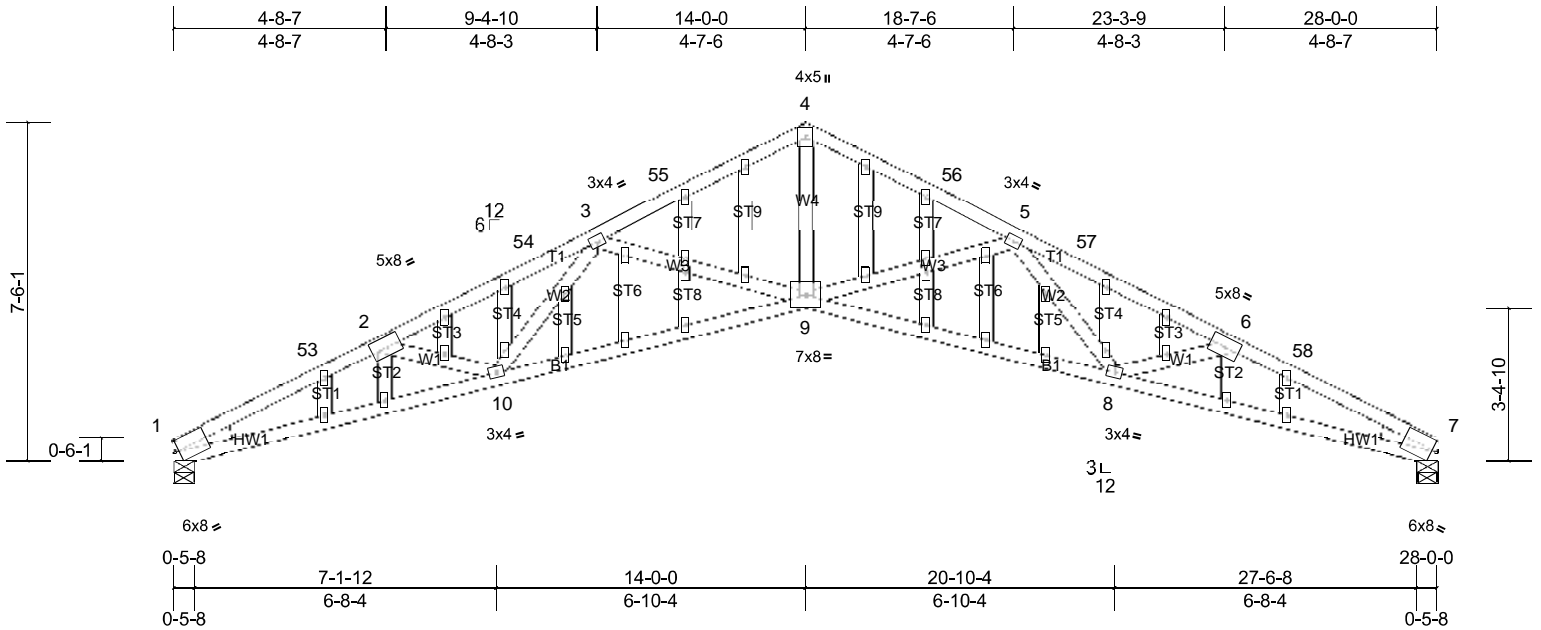
Job Q2401329	Truss SA	Truss Type Scissor Structural Gable	Qty 1	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	-------------	--	----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:01

Page: 1

ID:BEtFY9z0P3deyiasS6Yz4fzdlBA-KF0ifApolY6S1gSqAFIzZ?UhAFQsAorkuMfjaVzdl7W



Scale = 1:50.5

Plate Offsets (X, Y): [1:Edge,0-2-14], [6:0-1-4,0-2-8], [7:Edge,0-2-14], [13:0-1-10,0-1-0], [32:0-1-10,0-1-0]

Loading	(psf)	Spacing	2-0-0	CSI	0.65	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP
TCLL	30.0	Plate Grip DOL	1.15	TC	0.65	Vert(LL)	-0.34	9-10	>989	240	MT20	197/144
(Roof Snow = 30.0)		Lumber DOL	1.15	BC	0.61	Vert(CT)	-0.60	9-10	>563	180		
TCDL	10.0	Rep Stress Incr	YES	WB	0.54	Horz(CT)	0.39	7	n/a	n/a		
BCLL	0.0*	Code	IRC2021/TPI2014	Matrix-MS								
BCDL	10.0											
											Weight: 131 lb	FT = 20%

**LUMBER**  
TOP CHORD 2x4 SPF 2100F 1.8E  
BOT CHORD 2x4 SPF 2100F 1.8E  
WEBS 2x4 SPF No.2  
OTHERS 2x4 SPF No.2  
WEDGE Left: 2x4 SPF No.2  
Right: 2x4 SPF No.2

**BRACING**  
TOP CHORD  
BOT CHORD

Structural wood sheathing directly applied or 3-1-5 oc purlins.  
Rigid ceiling directly applied or 10-0-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

**REACTIONS** (lb/size) 1=1383/0-5-4, (min. 0-1-11), 7=1383/0-5-4, (min. 0-1-11)  
Max Horiz 1=-121 (LC 13)  
Max Uplift 1=-151 (LC 12), 7=-151 (LC 13)  
Max Grav 1=1394 (LC 18), 7=1394 (LC 19)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
TOP CHORD 1-53=-3955/516, 2-53=-3850/532, 2-54=-3770/445, 3-54=-3613/460, 3-55=-2922/368, 4-55=-2826/391, 4-56=-2826/390, 5-56=-2920/368, 5-57=-3650/466, 6-57=-3807/451, 6-58=-3775/509, 7-58=-3880/495  
BOT CHORD 1-10=-549/3511, 9-10=-393/3381, 8-9=-334/3373, 7-8=-405/3432  
WEBS 4-9=-205/2214, 3-10=0/297, 3-9=-938/267, 5-9=-930/272, 5-8=-12/323

- NOTES**
- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TC DL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior(2E) 0-2-10 to 3-2-10, Interior (1) 3-2-10 to 11-0-0, Exterior(2R) 11-0-0 to 17-0-0, Interior (1) 17-0-0 to 24-9-6, Exterior(2E) 24-9-6 to 27-9-6 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
  - 2) Truss designed for wind loads in the plane of the truss only. For studs exposed to wind (normal to the face), see Standard Industry Gable End Details as applicable, or consult qualified building designer as per ANSI/TPI 1.
  - 3) TCLL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
  - 4) Unbalanced snow loads have been considered for this design.
  - 5) All plates are 2x4 MT20 unless otherwise indicated.
  - 6) Gable studs spaced at 1-4-0 oc.
  - 7) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
  - 8) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
  - 9) Bearing at joint(s) 1, 7 considers parallel to grain value using ANSI/TPI 1 angle to grain formula. Building designer should verify capacity of bearing surface.
  - 10) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 151 lb uplift at joint 1 and 151 lb uplift at joint 7.

**LOAD CASE(S)** Standard

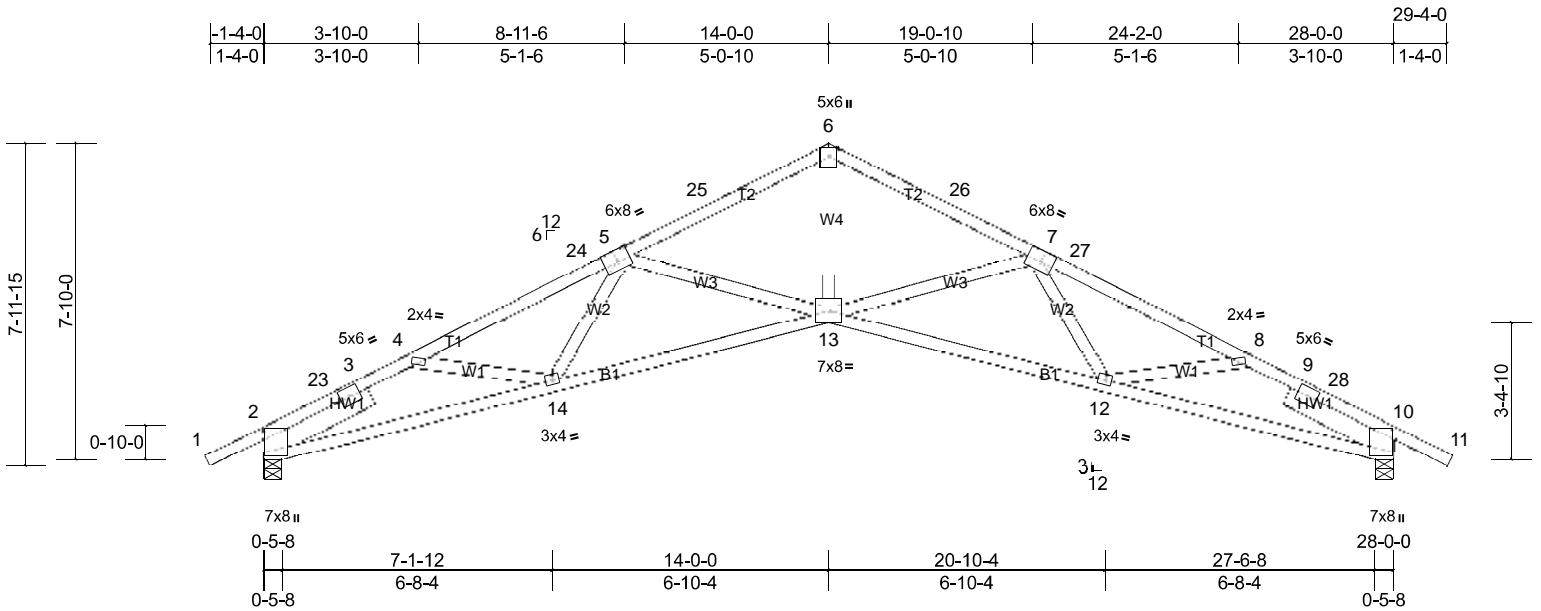
Job Q2401329	Truss SB	Truss Type Scissor	Qty 29	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	-------------	-----------------------	-----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:01

Page: 1

ID:AhpOPXZhQcLTtUzKTzx\_hUzdIBi-KF0ifApolY6S1gSqAFirZ?Ud8FL2ApbkuMfjaVzdI7W



Scale = 1:56.5

Plate Offsets (X, Y): [2:0-2-13,0-0-1], [5:0-4-0,Edge], [7:0-4-0,Edge], [10:0-2-13,0-0-1]

Loading	(psf)	Spacing	2-0-0	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	30.0	Plate Grip DOL	1.15	TC	0.90	Vert(LL)	-0.31	12-13	>999	240	MT20	197/144
(Roof Snow = 30.0)		Lumber DOL	1.15	BC	0.92	Vert(CT)	-0.56	12-13	>602	180		
TCDL	10.0	Rep Stress Incr	YES	WB	0.50	Horz(CT)	0.37	10	n/a	n/a		
BCLL	0.0*	Code	IRC2021/TP12014	Matrix-MS								
BCDL	10.0											
											Weight: 115 lb	FT = 20%

**LUMBER**  
 TOP CHORD 2x4 SPF No.2  
 BOT CHORD 2x4 SPF No.2  
 WEBS 2x4 SPF No.2  
 SLIDER Left 2x6 SPF 2100F 1.8E -- 3-0-0, Right 2x6 SPF 2100F 1.8E -- 3-0-0

**BRACING**  
 TOP CHORD  
 BOT CHORD

Structural wood sheathing directly applied or 1-9-11 oc purlins.  
 Rigid ceiling directly applied or 2-2-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

**REACTIONS** (lb/size) 2=1512/0-5-4, (min. 0-2-5), 10=1512/0-5-4, (min. 0-2-5)  
 Max Horiz 2=-136 (LC 13)  
 Max Uplift 2=-188 (LC 12), 10=-188 (LC 13)  
 Max Grav 2=1522 (LC 19), 10=1522 (LC 20)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
 TOP CHORD 3-4=-3255/456, 4-24=-3459/371, 5-24=-3309/388, 5-25=-2775/310, 6-25=-2667/327, 6-26=-2667/327, 7-26=-2775/310, 7-27=-3309/367, 8-27=-3459/351, 8-9=-3255/390  
 BOT CHORD 2-14=-469/2828, 13-14=-372/3195, 12-13=-225/3195, 10-12=-252/2828  
 WEBS 6-13=-135/2020, 4-14=0/361, 5-13=-880/269, 7-13=-880/279, 8-12=0/361

- NOTES**
- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCDL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior(2E) -1-4-13 to 1-7-3, Interior (1) 1-7-3 to 11-0-0, Exterior(2R) 11-0-0 to 17-0-0, Interior (1) 17-0-0 to 26-4-13, Exterior(2E) 26-4-13 to 29-4-13 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
  - 2) TCLL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
  - 3) Unbalanced snow loads have been considered for this design.
  - 4) This truss has been designed for greater of min roof live load of 16.0 psf or 1.00 times flat roof load of 30.0 psf on overhangs non-concurrent with other live loads.
  - 5) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
  - 6) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
  - 7) Bearing at joint(s) 2, 10 considers parallel to grain value using ANSI/TP1 angle to grain formula. Building designer should verify capacity of bearing surface.
  - 8) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 188 lb uplift at joint 2 and 188 lb uplift at joint 10.

**LOAD CASE(S)** Standard



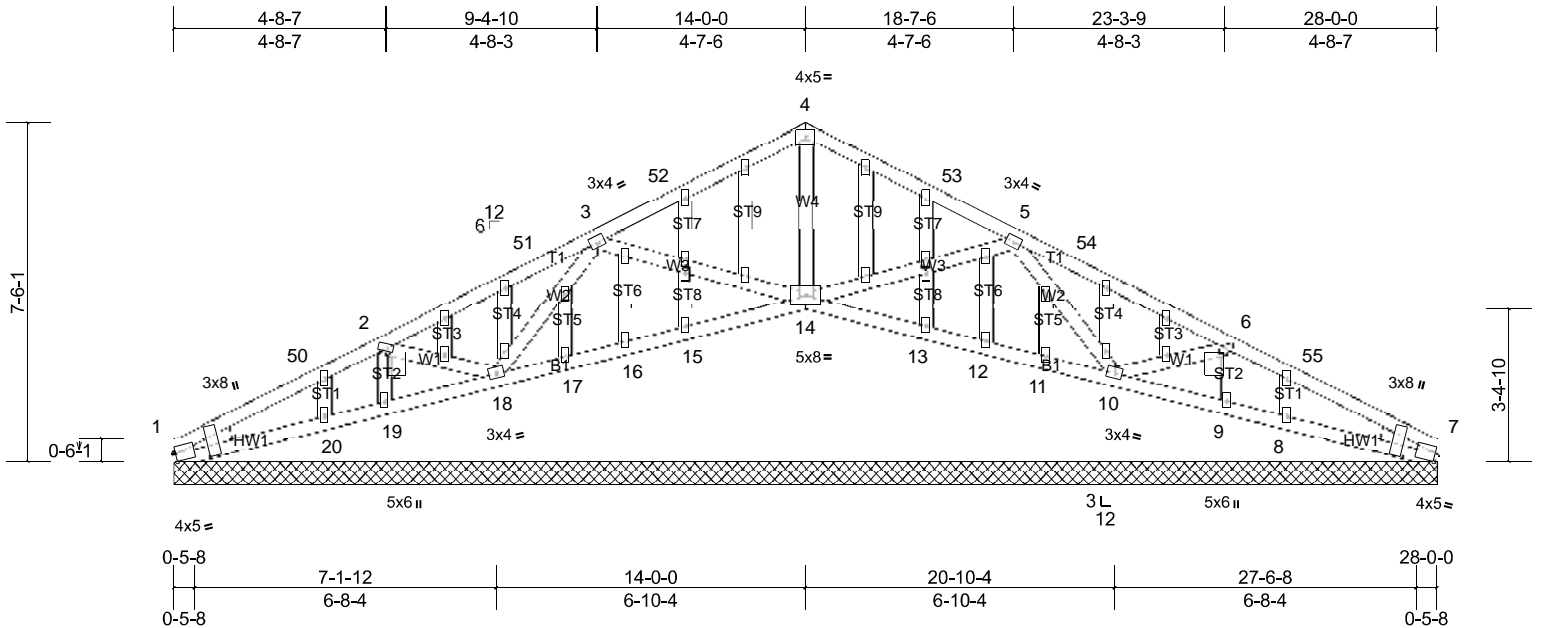
Job Q2401329	Truss SC	Truss Type Scissor Structural Gable	Qty 1	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	-------------	--	----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:02

Page: 1

ID: !?hbrQLqLHPOZJsdDP5?H\_zdIAi-oRa5sWpQ3GEIfq10jyG45C0sxfpJvju70PG6xzd17V



Scale = 1:50.5

Plate Offsets (X, Y): [1:0-0-6,Edge], [1:0-3-4,0-9-4], [7:0-0-6,Edge], [7:0-3-4,0-9-4], [23:0-1-10,0-1-0], [31:0-0-10,0-1-0], [36:0-1-10,0-1-0], [43:0-0-10,0-1-0]

Loading	(psf)	Spacing	2-0-0	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	30.0	Plate Grip DOL	1.15	TC	0.64	Vert(LL)	n/a	-	n/a	999	MT20	197/144
(Roof Snow = 30.0)		Lumber DOL	1.15	BC	0.44	Vert(TL)	n/a	-	n/a	999		
TCDL	10.0	Rep Stress Incr	YES	WB	0.31	Horiz(TL)	-0.02	7	n/a	n/a		
BCLL	0.0*	Code	IRC2021/TPI2014	Matrix-MS								
BCDL	10.0											Weight: 131 lb FT = 20%

**LUMBER**  
TOP CHORD 2x4 SPF No.2  
BOT CHORD 2x4 SPF No.2  
WEBS 2x4 SPF No.2  
OTHERS 2x4 SPF No.2  
WEDGE Left: 2x4 SPF No.2  
Right: 2x4 SPF No.2

**BRACING**  
TOP CHORD  
BOT CHORD

Structural wood sheathing directly applied or 6-0-0 oc purlins.  
Rigid ceiling directly applied or 6-0-0 oc bracing.  
MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

**REACTIONS** All bearings 28-0-0.  
(lb) - Max Horiz 1=129 (LC 12)  
Max Uplift All uplift 100 (lb) or less at joint(s) 1, 7, 8, 17, 19 except 9=140 (LC 19), 10=281 (LC 13), 14=229 (LC 12), 16=147 (LC 18)  
Max Grav All reactions 250 (lb) or less at joint(s) 9, 11, 12, 13, 15, 16, 19, 20 except 1=372 (LC 18), 8=350 (LC 19), 10=993 (LC 19), 14=1076 (LC 18), 17=353 (LC 18)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
TOP CHORD 1-50=-734/184, 2-50=-629/195, 2-51=-309/89, 3-52=-122/405, 4-52=-108/617, 4-53=-92/554, 5-53=-105/476, 5-54=-181/979, 6-54=-204/871, 6-55=-45/442, 7-55=-60/368  
BOT CHORD 1-20=-244/644, 19-20=-240/644, 18-19=-232/610, 17-18=-40/295, 15-16=-29/258, 14-15=-33/250, 13-14=-425/180, 12-13=-420/179, 11-12=-421/178, 10-11=-425/178, 9-10=-345/117, 8-9=-385/128, 7-8=-313/106  
WEBS 4-14=-788/170, 2-18=-440/216, 3-14=-727/261, 5-10=-1003/268, 6-10=-470/222

- NOTES**
- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCCL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior(2E) 0-0-0 to 3-0-0, Interior (1) 3-0-0 to 11-0-0, Exterior(2R) 11-0-0 to 17-0-0, Interior (1) 17-0-0 to 25-0-0, Exterior(2E) 25-0-0 to 28-0-0 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
  - 2) Truss designed for wind loads in the plane of the truss only. For studs exposed to wind (normal to the face), see Standard Industry Gable End Details as applicable, or consult qualified building designer as per ANSI/TPI 1.
  - 3) TCCL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
  - 4) Unbalanced snow loads have been considered for this design.
  - 5) All plates are 2x4 MT20 unless otherwise indicated.
  - 6) Gable requires continuous bottom chord bearing.
  - 7) Gable studs spaced at 1-4-0 oc.
  - 8) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
  - 9) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
  - 10) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 100 lb uplift at joint(s) 1, 17, 19, 8 except (jt=lb) 14=228, 10=281, 16=147, 9=140.
  - 11) Beveled plate or shim required to provide full bearing surface with truss chord at joint(s) 14, 10, 15, 16, 17, 19, 20, 13, 12, 11, 9, 8.

**LOAD CASE(S)** Standard



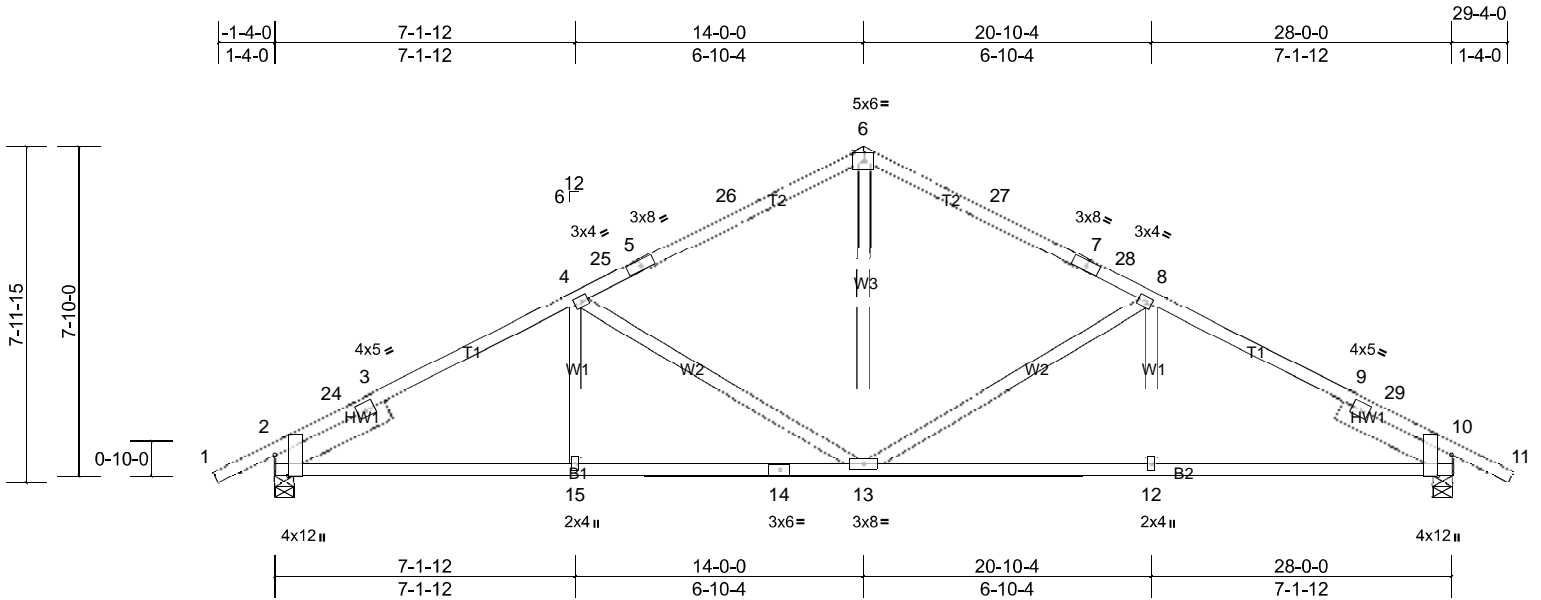
Job Q2401329	Truss TA	Truss Type Common	Qty 16	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	-------------	----------------------	-----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:02

Page: 1

ID:YJP7MWUMWzwh?9nwwlplnWzdlAW-oRa5sWpQ3GEIfq10JyG45C0qYfj\_vBeu70PG6xzd7V



Scale = 1:54.2

Plate Offsets (X, Y): [2:0-6-1,Edge], [10:0-6-1,Edge]

Loading	(psf)	Spacing	2-0-0	CSI	0.80	DEFL	in (loc)	l/defl	L/d	PLATES	GRIP
TCLL	30.0	Plate Grip DOL	1.15	TC	0.80	Vert(LL)	-0.13 13-15	>999	240	MT20	197/144
(Roof Snow = 30.0)		Lumber DOL	1.15	BC	0.81	Vert(CT)	-0.24 13-15	>999	180		
TCDL	10.0	Rep Stress Incr	YES	WB	0.83	Horz(CT)	0.09 10	n/a	n/a		
BCLL	0.0*	Code	IRC2021/TPI2014	Matrix-MS							
BCDL	10.0									Weight: 117 lb	FT = 20%

**LUMBER**  
TOP CHORD 2x4 SPF 2100F 1.8E \*Except\* T1:2x4 SPF No.2  
BOT CHORD 2x4 SPF No.2  
WEBS 2x4 SPF No.2  
SLIDER Left 2x6 SPF 2100F 1.8E -- 3-0-0, Right 2x6 SPF 2100F 1.8E -- 3-0-0

**BRACING**  
TOP CHORD  
BOT CHORD

Structural wood sheathing directly applied or 3-0-3 oc purlins.  
Rigid ceiling directly applied or 10-0-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

**REACTIONS** (lb/size) 2=1512/0-5-8, (min. 0-2-6), 10=1512/0-5-8, (min. 0-2-6)  
Max Horiz 2=-136 (LC 13)  
Max Uplift 2=-188 (LC 12), 10=-188 (LC 13)  
Max Grav 2=1522 (LC 19), 10=1522 (LC 20)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
TOP CHORD 2-24=-523/0, 3-24=-431/0, 3-4=-2156/299, 4-25=-1614/266, 5-25=-1558/266, 5-26=-1491/283, 6-26=-1476/299, 6-27=-1476/299, 7-27=-1491/283, 7-28=-1558/266, 8-28=-1614/266, 8-9=-2156/299, 9-29=-431/0, 10-29=-448/0  
BOT CHORD 2-15=-270/1895, 14-15=-244/1895, 13-14=-244/1895, 12-13=-137/1895, 10-12=-137/1895  
WEBS 4-13=-749/227, 6-13=-57/796, 8-13=-749/227

- NOTES**
- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCDL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior(2E) -1-4-13 to 1-7-3, Interior (1) 1-7-3 to 11-0-0, Exterior(2R) 11-0-0 to 17-0-0, Interior (1) 17-0-0 to 26-4-13, Exterior(2E) 26-4-13 to 29-4-13 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
  - 2) TCLL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
  - 3) Unbalanced snow loads have been considered for this design.
  - 4) This truss has been designed for greater of min roof live load of 16.0 psf or 1.00 times flat roof load of 30.0 psf on overhangs non-concurrent with other live loads.
  - 5) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
  - 6) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
  - 7) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 188 lb uplift at joint 2 and 188 lb uplift at joint 10.

**LOAD CASE(S)** Standard

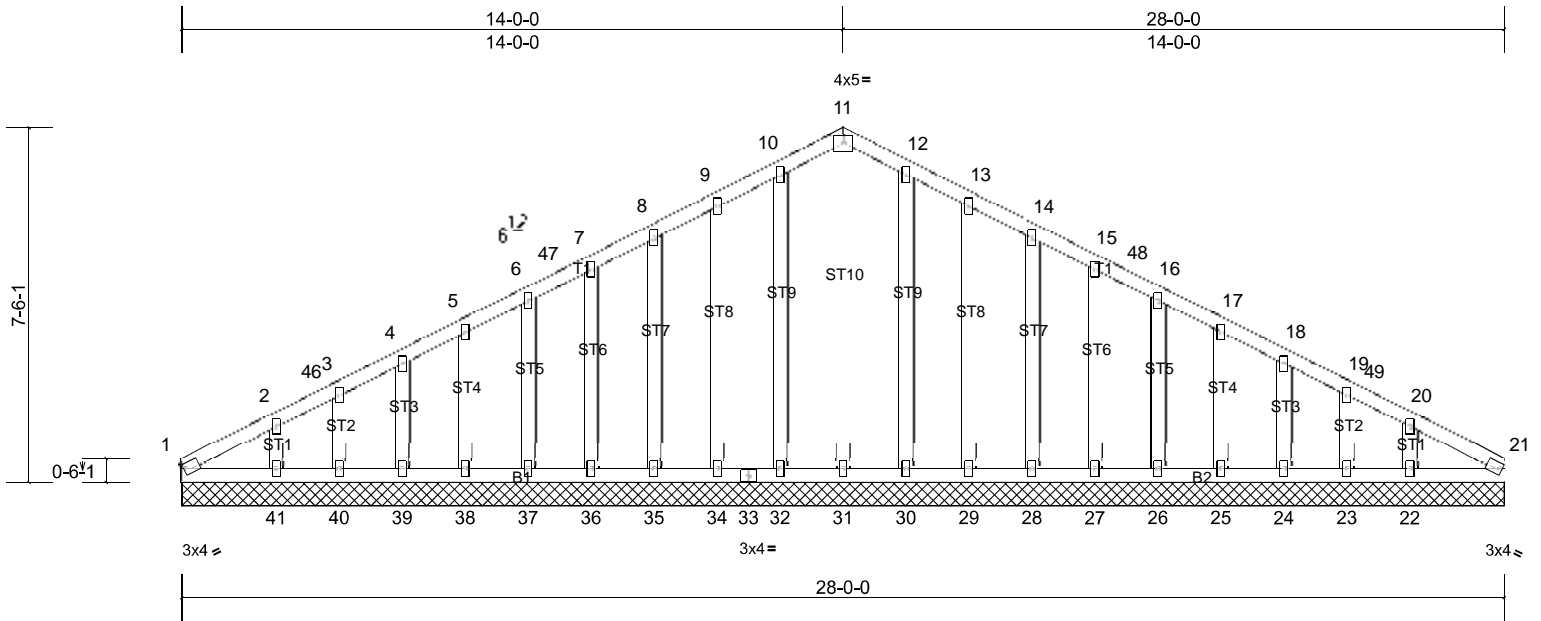
Job Q2401329	Truss TAGE	Truss Type Common Supported Gable	Qty 1	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	---------------	--------------------------------------	----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:03

Page: 1

ID:rMA3mikXaQZi0UozfqBk7xzdIAB-Ge7T4sq2qZM9GzcDHgnJeQZ9i2Eleoy1Lg8qeNzdl7U



Scale = 1:48.2

Loading	(psf)	Spacing	2-0-0	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	30.0	Plate Grip DOL	1.15	TC	0.13	Vert(LL)	n/a	-	n/a	999	MT20	197/144
(Roof Snow = 30.0)		Lumber DOL	1.15	BC	0.10	Vert(TL)	n/a	-	n/a	999		
TCDL	10.0	Rep Stress Incr	YES	WB	0.18	Horiz(TL)	0.00	21	n/a	n/a		
BCLL	0.0*	Code	IRC2021/TPI2014	Matrix-MS								
BCDL	10.0											
											Weight: 150 lb	FT = 20%

**LUMBER**  
 TOP CHORD 2x4 SPF No.2  
 BOT CHORD 2x4 SPF No.2  
 OTHERS 2x4 SPF No.2

**BRACING**  
 TOP CHORD  
 BOT CHORD

Structural wood sheathing directly applied or 10-0-0 oc purlins.  
 Rigid ceiling directly applied or 6-0-0 oc bracing.

MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

**REACTIONS** All bearings 28-0-0.  
 (lb) - Max Horiz 1=127 (LC 16), 42=127 (LC 16)  
 Max Uplift All uplift 100 (lb) or less at joint(s) 1, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42  
 Max Grav All reactions 250 (lb) or less at joint(s) 1, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42 except 22=322 (LC 1)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
 TOP CHORD 10-11=-72/271, 11-12=-72/271

- NOTES**
- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCDL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Corner(3E) 0-0-0 to 3-0-0, Exterior(2N) 3-0-0 to 11-0-0, Corner(3R) 11-0-0 to 17-0-0, Exterior(2N) 17-0-0 to 25-0-0, Corner(3E) 25-0-0 to 28-0-0 zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
  - 2) Truss designed for wind loads in the plane of the truss only. For studs exposed to wind (normal to the face), see Standard Industry Gable End Details as applicable, or consult qualified building designer as per ANSI/TPI 1.
  - 3) TCLL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
  - 4) Unbalanced snow loads have been considered for this design.
  - 5) All plates are 2x4 MT20 unless otherwise indicated.
  - 6) Gable requires continuous bottom chord bearing.
  - 7) Gable studs spaced at 1-4-0 oc.
  - 8) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
  - 9) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
  - 10) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 100 lb uplift at joint(s) 1, 32, 34, 35, 36, 37, 38, 39, 40, 41, 30, 29, 28, 27, 26, 25, 24, 23, 22, 1.

**LOAD CASE(S)** Standard

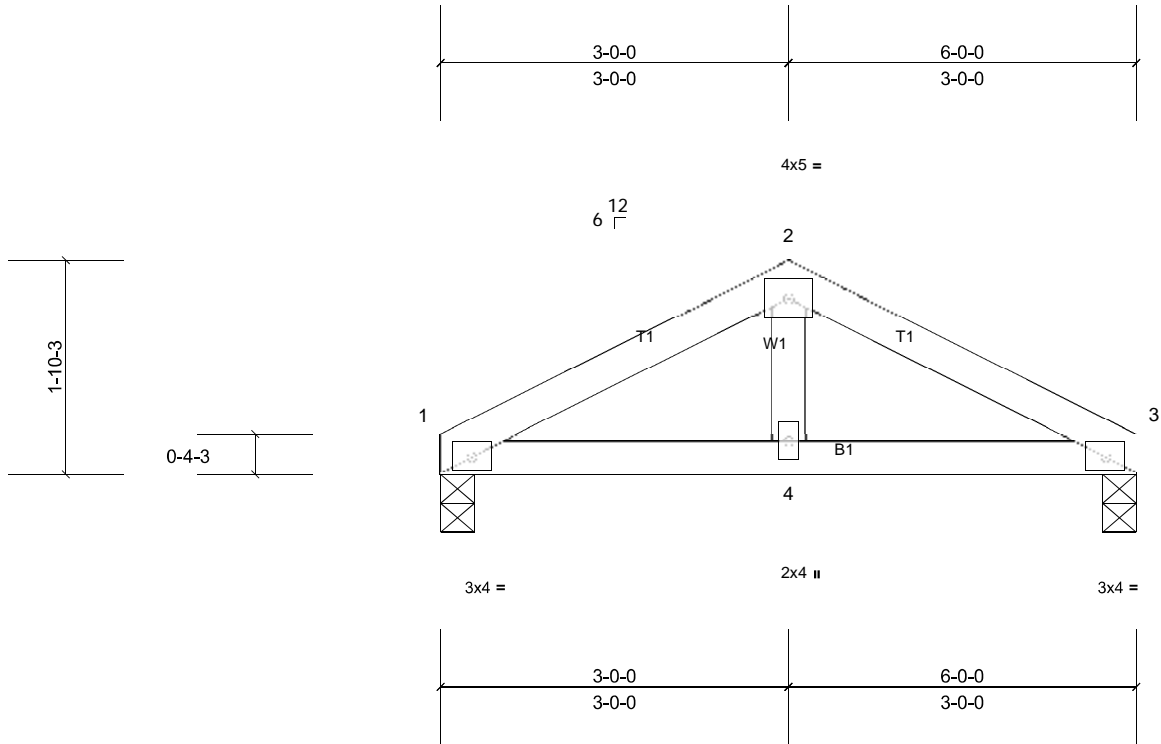
Job Q2401329	Truss TC	Truss Type Common	Qty 2	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	-------------	----------------------	----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:03

Page: 1

ID:gsATsprc8N1oRNLUSUSJ4J7zdl8m-Ge7T4sq2qZM9GzcDHgnJeQZ9K2CLeqK1Lg8qeNzdl7U



Scale = 1:19.7

Loading	(psf)	Spacing	1-11-4	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL (Roof Snow = 30.0)	30.0	Plate Grip DOL	1.15	TC	0.16	Vert(LL)	-0.01	4-10	>999	240	MT20	197/144
TCDL	10.0	Lumber DOL	1.15	BC	0.23	Vert(CT)	-0.01	4-10	>999	180		
BCLL	0.0*	Rep Stress Incr	YES	WB	0.03	Horz(CT)	0.00	3	n/a	n/a		
BCDL	10.0	Code	IRC2021/TPI2014	Matrix-MP								
											Weight: 16 lb	FT = 20%

**LUMBER**

TOP CHORD 2x4 SPF No.2  
 BOT CHORD 2x4 SPF No.2  
 WEBS 2x4 SPF No.2

**BRACING**

TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins.  
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

**REACTIONS** (lb/size) 1=291/0-3-8, (min. 0-1-8), 3=291/0-3-8, (min. 0-1-8)

Max Horiz 1=-26 (LC 13)  
 Max Uplift 1=-33 (LC 12), 3=-33 (LC 13)  
 Max Grav 1=333 (LC 18), 3=333 (LC 19)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.

TOP CHORD 1-2=-402/178, 2-3=-402/178  
 BOT CHORD 1-4=-92/315, 3-4=-92/315

**NOTES**

- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCDL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior(2E) zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
- 2) TCLL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
- 3) Unbalanced snow loads have been considered for this design.
- 4) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
- 5) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
- 6) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 33 lb uplift at joint 1 and 33 lb uplift at joint 3.

**LOAD CASE(S)** Standard

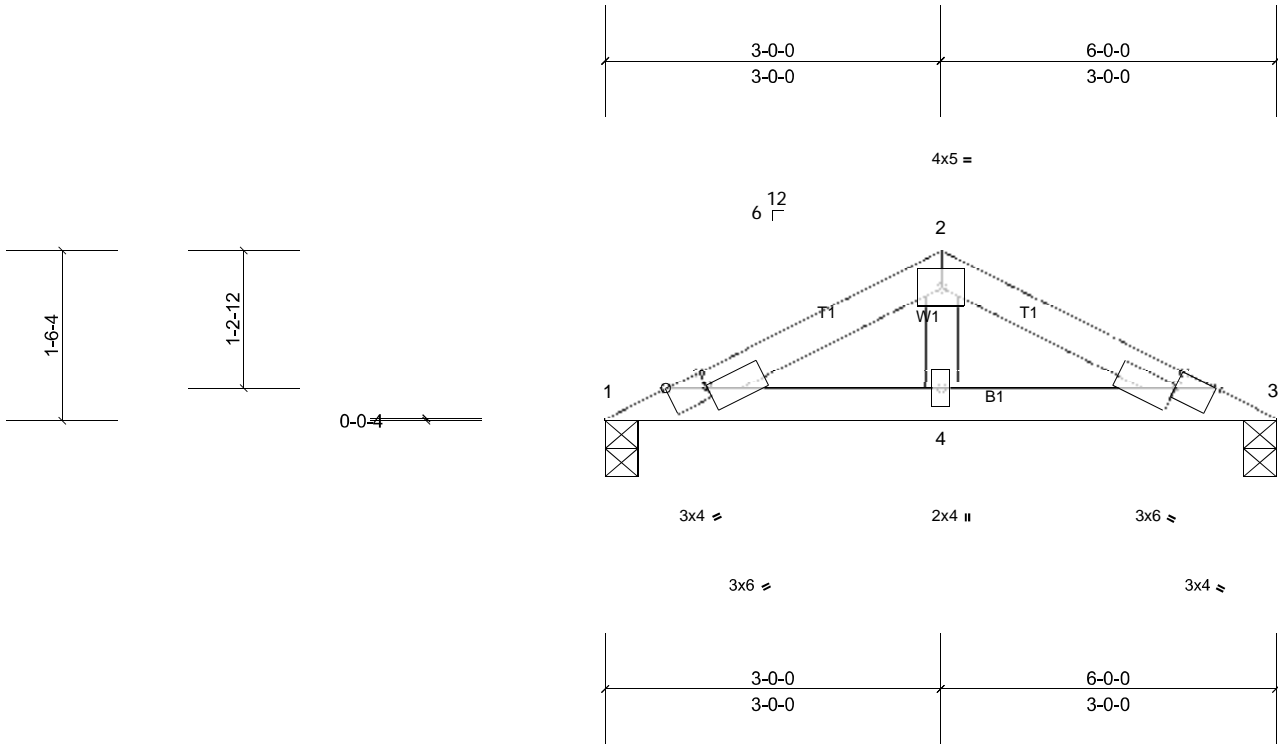
Job Q2401329	Truss TCG	Truss Type Common Structural Gable	Qty 1	Ply 1	Superior Custom Homes Job Reference (optional)	Section 10 Item d.
-----------------	--------------	---------------------------------------	----------	----------	---	--------------------

Black Hills Structural Components, Rapid City, SD, user

Run: 8.72 S Jan 22 2024 Print: 8.720 S Jan 22 2024 MiTek Industries, Inc. Thu Mar 07 12:53:03

Page: 1

ID:czmojhfcgm8w73ia6oYZCzddl9?-Ge7T4sq2qZM9GzcDHgnJeQZ9h2BUeq61Lg8qeNzdI7U



Scale = 1:20.4

Plate Offsets (X, Y): [1:0-3-15,Edge], [1:0-4-0,0-1-11], [3:0-3-15,Edge], [3:0-4-0,0-1-11]

Loading	(psf)	Spacing	1-11-4	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	30.0	Plate Grip DOL	1.15	TC	0.13	Vert(LL)	-0.01	4-5	>999	240	MT20	197/144
(Roof Snow = 30.0)		Lumber DOL	1.15	BC	0.28	Vert(CT)	-0.02	4-5	>999	180		
TCDL	10.0	Rep Stress Incr	YES	WB	0.05	Horz(CT)	0.01	3	n/a	n/a		
BCLL	0.0*	Code	IRC2021/TPI2014	Matrix-MP								
BCDL	10.0										Weight: 14 lb	FT = 20%

**LUMBER**

TOP CHORD 2x4 SPF No.2  
 BOT CHORD 2x4 SPF No.2  
 WEBS 2x4 SPF No.2

**BRACING**

TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins.  
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

**REACTIONS** (lb/size) 1=276/0-3-8, (min. 0-1-8), 3=276/0-3-8, (min. 0-1-8)  
 Max Horiz 1=23 (LC 12)  
 Max Uplift 1=-32 (LC 12), 3=-32 (LC 13)  
 Max Grav 1=315 (LC 18), 3=315 (LC 19)

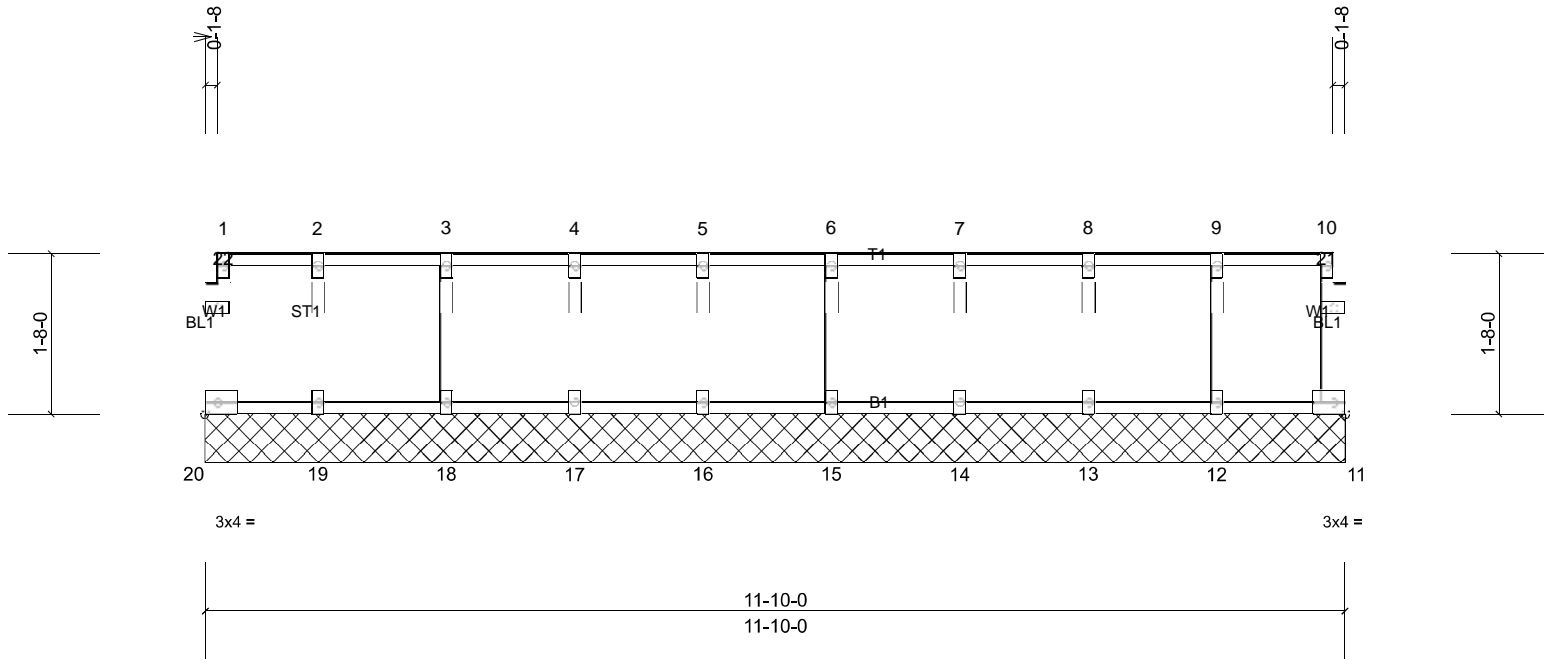
**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.

TOP CHORD 1-2=-523/208, 2-3=-451/200  
 BOT CHORD 1-4=-168/443, 3-4=-117/376

**NOTES**

- 1) Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCDL=6.0psf; BCDL=6.0psf; h=25ft; Cat. II; Exp C; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior(2E) zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
- 2) Truss designed for wind loads in the plane of the truss only. For studs exposed to wind (normal to the face), see Standard Industry Gable End Details as applicable, or consult qualified building designer as per ANSI/TPI 1.
- 3) TCLL: ASCE 7-16; Pf=30.0 psf (Lum DOL=1.15 Plate DOL=1.15); Is=1.0; Rough Cat C; Partially Exp.; Ce=1.0; Cs=1.00; Ct=1.10
- 4) Unbalanced snow loads have been considered for this design.
- 5) Gable studs spaced at 1-4-0 oc.
- 6) This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
- 7) \* This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
- 8) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 32 lb uplift at joint 1 and 32 lb uplift at joint 3.

**LOAD CASE(S)** Standard



Scale = 1:23.9

Loading	(psf)	Spacing	1-7-3	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	40.0	Plate Grip DOL	1.00	TC	0.03	Vert(LL)	n/a	-	n/a	999	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.00	Vert(TL)	n/a	-	n/a	999		
BCLL	0.0	Rep Stress Incr	YES	WB	0.02	Horiz(TL)	0.00	11	n/a	n/a		
BCDL	5.0	Code	IRC2021/TP12014	Matrix-R							Weight: 46 lb	FT = 15%F, 15%E

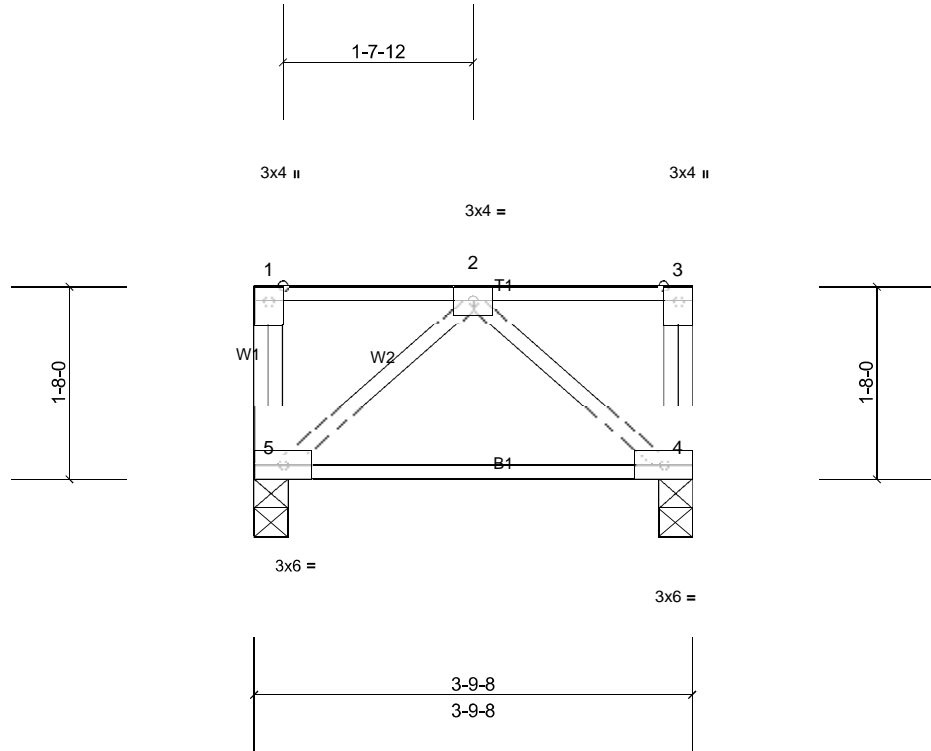
LUMBER	BRACING
TOP CHORD 2x4 SPF 2100F 1.8E(flat)	TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins, except end verticals.
BOT CHORD 2x4 SPF 2100F 1.8E(flat)	BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.
WEBS 2x4 SPF No.2(flat)	
OTHERS 2x4 SPF No.2(flat)	

**REACTIONS** All bearings 11-10-0.  
 (lb) - Max Grav All reactions 250 (lb) or less at joint(s) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.

- NOTES**
- As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.
  - All plates are 1.5x3 MT20 unless otherwise indicated.
  - Gable requires continuous bottom chord bearing.
  - Truss to be fully sheathed from one face or securely braced against lateral movement (i.e. diagonal web).
  - Gable studs spaced at 1-4-0 oc.
  - Recommend 2x6 strongbacks, on edge, spaced at 10-00-00 oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.

**LOAD CASE(S)** Standard



Scale = 1:19.9

Loading	(psf)	Spacing	1-7-3	CSI		DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP
TCLL	40.0	Plate Grip DOL	1.00	TC	0.08	Vert(LL)	n/a	-	n/a	999	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.06	Vert(CT)	-0.02	4-5	>999	360		
BCLL	0.0	Rep Stress Incr	YES	WB	0.02	Horz(CT)	0.00	5	n/a	n/a		
BCDL	5.0	Code	IRC2021/TPI2014	Matrix-P							Weight: 20 lb	FT = 15%F, 15%E

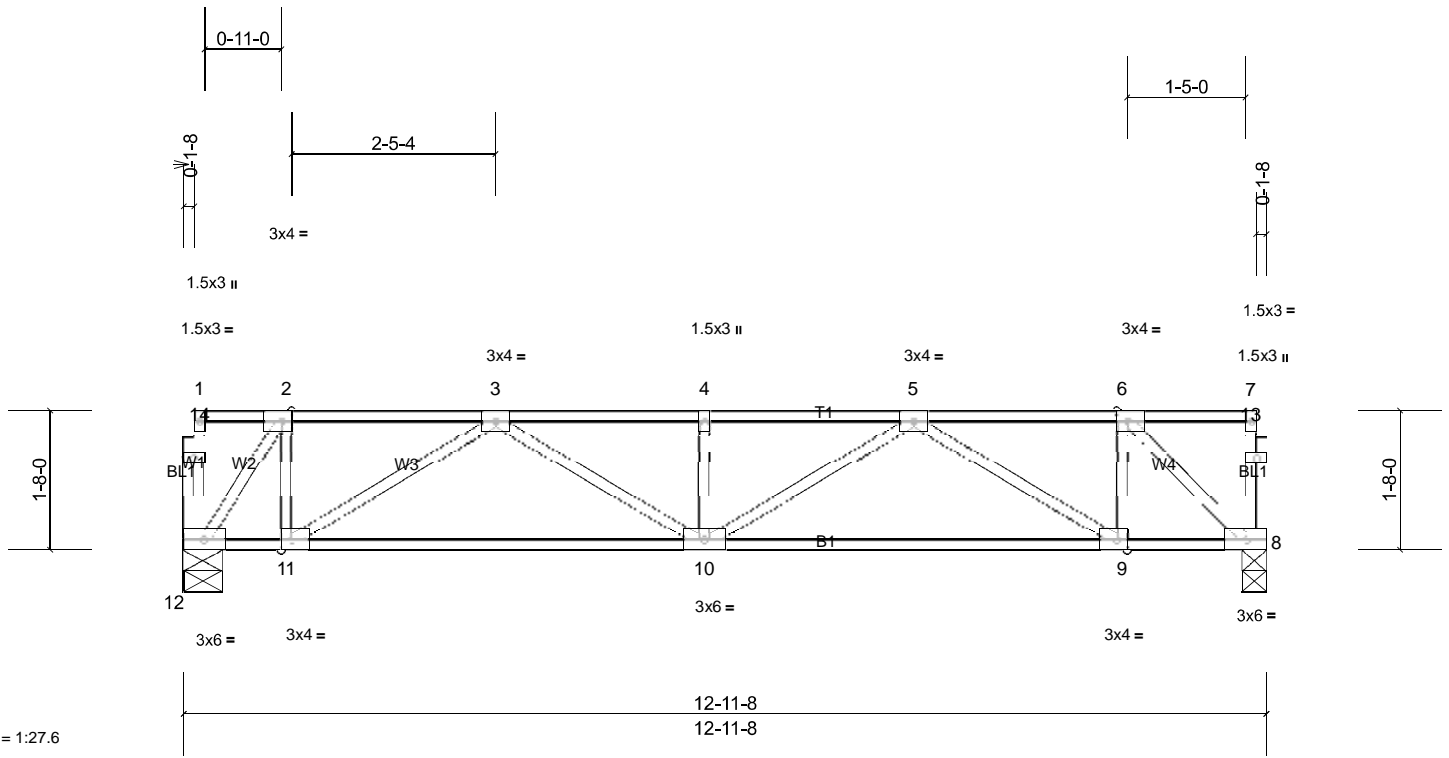
<b>LUMBER</b> TOP CHORD 2x4 SPF 2100F 1.8E(flat) BOT CHORD 2x4 SPF 2100F 1.8E(flat) WEBS 2x4 SPF No.2(flat)	<b>BRACING</b> TOP CHORD Structural wood sheathing directly applied or 3-9-8 oc purlins, except end verticals. BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.
--	---

**REACTIONS** (lb/size) 4=156/0-3-8, (min. 0-1-8), 5=156/0-3-8, (min. 0-1-8)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.

- NOTES**
- As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.
  - Recommend 2x6 strongbacks, on edge, spaced at 10-00-00 oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.

**LOAD CASE(S)** Standard



Scale = 1:27.6

Plate Offsets (X, Y): [2:0-1-8,Edge], [6:0-1-8,Edge], [9:0-1-8,Edge], [11:0-1-8,Edge]

Loading	(psf)	Spacing	1-7-3	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	40.0	Plate Grip DOL	1.00	TC	0.12	Vert(LL)	-0.03	10	>999	480	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.16	Vert(CT)	-0.06	9-10	>999	360		
BCLL	0.0	Rep Stress Incr	YES	WB	0.14	Horz(CT)	0.01	8	n/a	n/a		
BCDL	5.0	Code	IRC2021/TPI2014	Matrix-P							Weight: 57 lb	FT = 15%F, 15%E

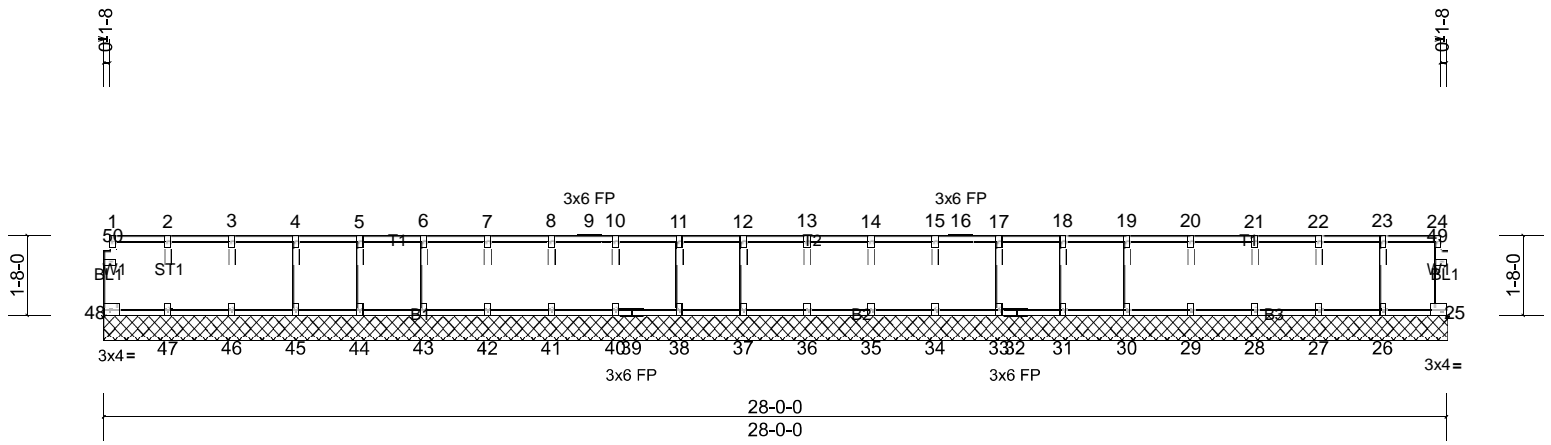
**LUMBER**  
 TOP CHORD 2x4 SPF 2100F 1.8E(flat)  
 BOT CHORD 2x4 SPF 2100F 1.8E(flat)  
 WEBS 2x4 SPF No.2(flat)  
 OTHERS 2x4 SPF No.2(flat)

**BRACING**  
 TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins, except end verticals.  
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

**REACTIONS** (lb/size) 8=554/0-3-8, (min. 0-1-8), 12=554/0-5-8, (min. 0-1-8)  
**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
 TOP CHORD 2-3=-394/0, 3-4=-1185/0, 4-5=-1185/0, 5-6=-537/0  
 BOT CHORD 11-12=0/394, 10-11=0/956, 9-10=0/1027, 8-9=0/537  
 WEBS 6-8=-743/0, 6-9=0/334, 5-9=-575/0, 3-10=0/269, 3-11=-660/0, 2-11=0/381, 2-12=-676/0

**NOTES**  
 1) As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.  
 2) Recommend 2x6 strongbacks, on edge, spaced at 10-00-00 oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.

**LOAD CASE(S)** Standard



Scale = 1:48

Loading	(psf)	Spacing	1-7-3	CSI	DEFL	in (loc)	l/defl	L/d	PLATES	GRIP		
TCLL	40.0	Plate Grip DOL	1.00	TC	0.03	Vert(LL)	n/a	-	n/a	999	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.00	Vert(TL)	n/a	-	n/a	999		
BCLL	0.0	Rep Stress Incr	YES	WB	0.02	Horiz(TL)	0.00	25	n/a	n/a		
BCDL	5.0	Code	IRC2021/TP12014	Matrix-R								Weight: 102 lb FT = 15%F, 15%E

<b>LUMBER</b> TOP CHORD 2x4 SPF 2100F 1.8E(flat) BOT CHORD 2x4 SPF 2100F 1.8E(flat) WEBS 2x4 SPF No.2(flat) OTHERS 2x4 SPF No.2(flat)	<b>BRACING</b> TOP CHORD Structural wood sheathing directly applied or 6'-0" oc purlins, except end verticals. BOT CHORD Rigid ceiling directly applied or 10'-0" oc bracing.
---	---

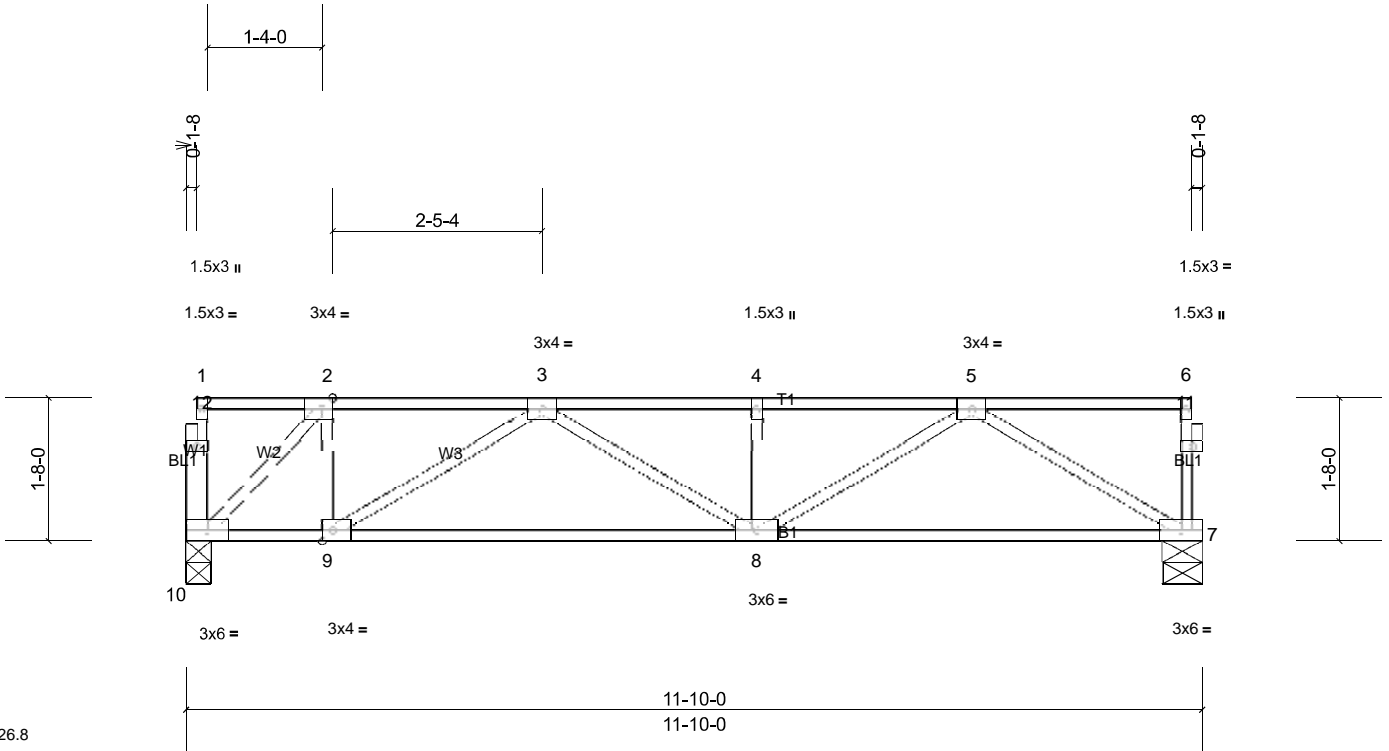
**REACTIONS** All bearings 28'-0".  
 (lb) - Max Grav All reactions 250 (lb) or less at joint(s) 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.

- NOTES**
- 1) As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.
  - 2) All plates are 1.5x3 MT20 unless otherwise indicated.
  - 3) Gable requires continuous bottom chord bearing.
  - 4) Truss to be fully sheathed from one face or securely braced against lateral movement (i.e. diagonal web).
  - 5) Gable studs spaced at 1'-4" oc.
  - 6) Recommend 2x6 strongbacks, on edge, spaced at 10'-0" oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.

**LOAD CASE(S)** Standard





Scale = 1:26.8

Plate Offsets (X, Y): [2:0-1-8,Edge], [9:0-1-8,Edge]

Loading	(psf)	Spacing	1-7-3	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	40.0	Plate Grip DOL	1.00	TC	0.14	Vert(LL)	-0.02	8-9	>999	480	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.16	Vert(CT)	-0.05	7-8	>999	360		
BCLL	0.0	Rep Stress Incr	YES	WB	0.17	Horz(CT)	0.01	7	n/a	n/a		
BCDL	5.0	Code	IRC2021/TPI2014	Matrix-P							Weight: 51 lb	FT = 15%F, 15%E

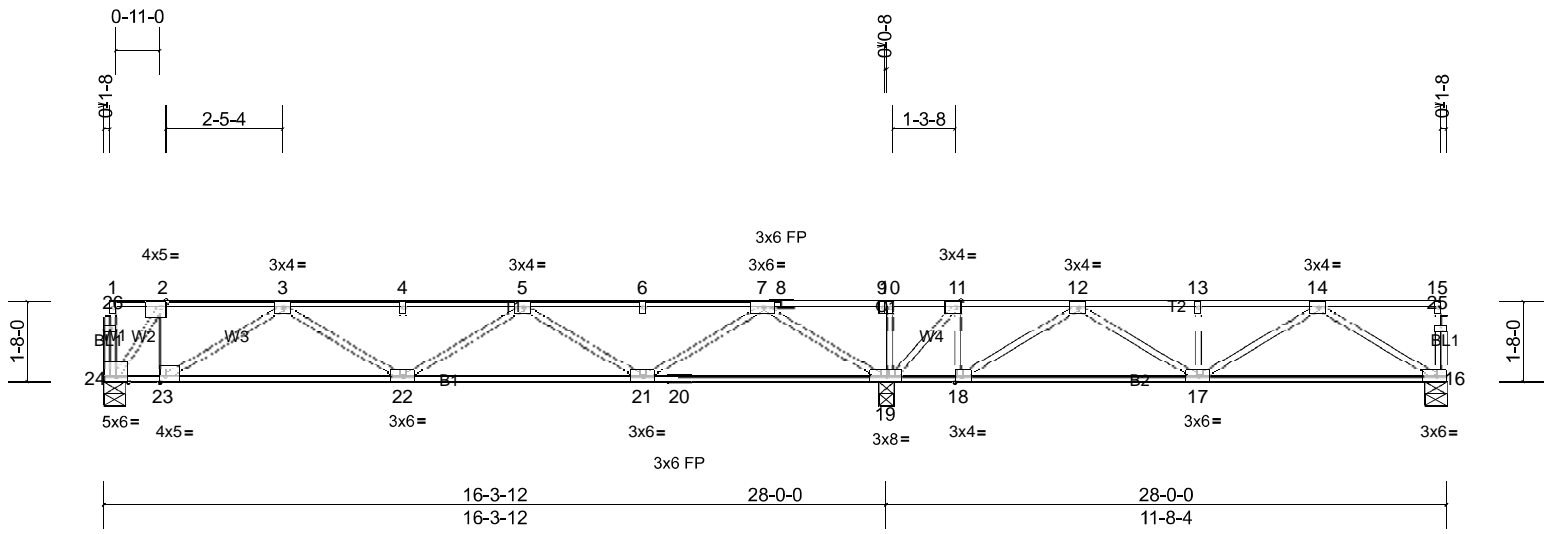
**LUMBER**  
 TOP CHORD 2x4 SPF 2100F 1.8E(flat)  
 BOT CHORD 2x4 SPF 2100F 1.8E(flat)  
 WEBS 2x4 SPF No.2(flat)  
 OTHERS 2x4 SPF No.2(flat)

**BRACING**  
 TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins, except end verticals.  
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

**REACTIONS** (lb/size) 7=505/0-5-8, (min. 0-1-8), 10=505/0-3-8, (min. 0-1-8)  
**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
 TOP CHORD 2-3=-464/0, 3-4=-978/0, 4-5=-978/0  
 BOT CHORD 9-10=0/464, 8-9=0/889, 7-8=0/683  
 WEBS 5-7=-793/0, 5-8=0/347, 3-9=-498/0, 2-9=0/292, 2-10=-659/0

**NOTES**  
 1) As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.  
 2) Recommend 2x6 strongbacks, on edge, spaced at 10-00-00 oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.

**LOAD CASE(S)** Standard



Scale = 1:48  
 Plate Offsets (X, Y): [2:0-1-8,Edge], [11:0-1-8,Edge], [18:0-1-8,Edge], [23:0-1-8,Edge]

Loading	(psf)	Spacing	1-7-3	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	40.0	Plate Grip DOL	1.00	TC	0.16	Vert(LL)	-0.08	21-22	>999	480	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.26	Vert(CT)	-0.12	21-22	>999	360		
BCLL	0.0	Rep Stress Incr	YES	WB	0.25	Horz(CT)	0.04	16	n/a	n/a		
BCDL	5.0	Code	IRC2021/TPI2014	Matrix-S								Weight: 117 lb FT = 15%F, 15%E

**LUMBER**  
 TOP CHORD 2x4 SPF 2100F 1.8E(flat)  
 BOT CHORD 2x4 SPF 2100F 1.8E(flat)  
 WEBS 2x4 SPF No.2(flat)  
 OTHERS 2x4 SPF No.2(flat)

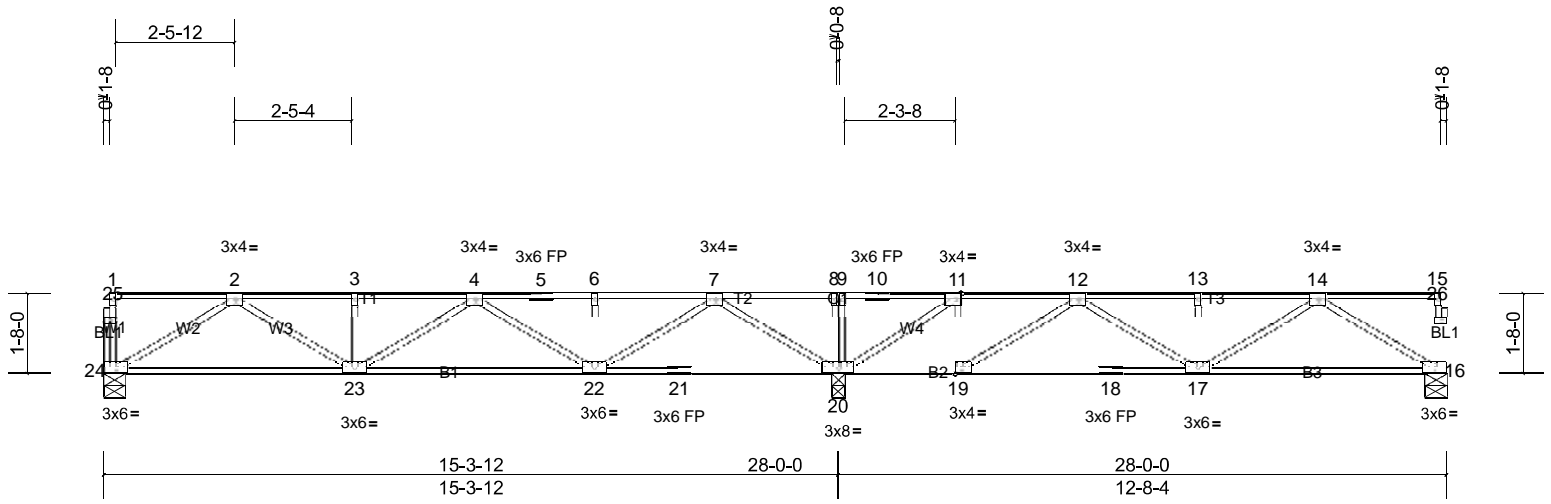
**BRACING**  
 TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins, except end verticals.  
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

**REACTIONS** (lb/size) 16=502/0-5-8, (min. 0-1-8), 19=1212/0-3-8, (min. 0-1-8),  
 24=705/0-5-4, (min. 0-1-8)  
 Max Grav 16=503 (LC 4), 19=1212 (LC 1), 24=705 (LC 3)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
 TOP CHORD 2-3=-502/0, 3-4=-1780/0, 4-5=-1780/0, 5-6=-1623/0, 6-7=-1623/0, 11-12=-451/0, 12-13=-972/0, 13-14=-972/0  
 BOT CHORD 23-24=0/502, 22-23=0/1307, 21-22=0/1866, 20-21=0/1009, 19-20=0/1009, 18-19=0/451, 17-18=0/879, 16-17=0/680  
 WEBS 7-19=-1174/0, 7-21=0/721, 5-21=-286/0, 3-22=0/555, 3-23=-946/0, 2-23=0/531, 2-24=-862/0, 14-16=-790/0, 14-17=0/344,  
 12-18=-505/0, 11-18=0/279, 11-19=-639/0

- NOTES**
- Unbalanced floor live loads have been considered for this design.
  - As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.
  - All plates are 1.5x3 MT20 unless otherwise indicated.
  - Recommend 2x6 strongbacks, on edge, spaced at 10-00-00 oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.
  - CAUTION, Do not erect truss backwards.
  - Top chord over the bearing at 16-3-12 is required to be field cut at time of installation. No plates are to be damaged or disturbed.

**LOAD CASE(S)** Standard



Scale = 1:48

Plate Offsets (X, Y): [11:0-1-8,Edge], [19:0-1-8,Edge]

Loading	(psf)	Spacing	1-7-3	CSI	DEFL	in	(loc)	l/defl	L/d	PLATES	GRIP	
TCLL	40.0	Plate Grip DOL	1.00	TC	0.16	Vert(LL)	-0.07	22-23	>999	480	MT20	197/144
TCDL	10.0	Lumber DOL	1.00	BC	0.24	Vert(CT)	-0.10	22-23	>999	360		
BCLL	0.0	Rep Stress Incr	YES	WB	0.24	Horz(CT)	0.04	16	n/a	n/a		
BCDL	5.0	Code	IRC2021/TPI2014	Matrix-S								Weight: 115 lb FT = 15%F, 15%E

**LUMBER**  
 TOP CHORD 2x4 SPF 2100F 1.8E(flat)  
 BOT CHORD 2x4 SPF 2100F 1.8E(flat)  
 WEBS 2x4 SPF No.2(flat)  
 OTHERS 2x4 SPF No.2(flat)

**BRACING**  
 TOP CHORD Structural wood sheathing directly applied or 6-0-0 oc purlins, except end verticals.  
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

**REACTIONS** (lb/size) 16=546/0-5-8, (min. 0-1-8), 20=1211/0-3-5, (min. 0-1-8), 24=661/0-5-4, (min. 0-1-8)  
 Max Grav 16=546 (LC 4), 20=1211 (LC 1), 24=662 (LC 3)

**FORCES** (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.  
 TOP CHORD 2-3=-1498/0, 3-4=-1498/0, 4-5=-1485/0, 5-6=-1485/0, 6-7=-1485/0, 11-12=-743/0, 12-13=-1116/0, 13-14=-1116/0  
 BOT CHORD 23-24=0/955, 22-23=0/1657, 21-22=0/943, 20-21=0/943, 19-20=0/743, 18-19=0/1089, 17-18=0/1089, 16-17=0/752  
 WEBS 7-20=-1093/0, 7-22=0/637, 2-23=0/638, 2-24=-1106/0, 14-16=-873/0, 14-17=0/427, 12-19=-407/0, 11-20=-868/0

- NOTES**
- Unbalanced floor live loads have been considered for this design.
  - As requested, plates have not been designed to provide for placement tolerances or rough handling and erection conditions. It is the responsibility of the fabricator to increase plate sizes to account for these factors.
  - All plates are 1.5x3 MT20 unless otherwise indicated.
  - Recommend 2x6 strongbacks, on edge, spaced at 10-00-00 oc and fastened to each truss with 3-10d (0.131" X 3") nails. Strongbacks to be attached to walls at their outer ends or restrained by other means.
  - CAUTION, Do not erect truss backwards.
  - Top chord over the bearing at 15-3-12 is required to be field cut at time of installation. No plates are to be damaged or disturbed.

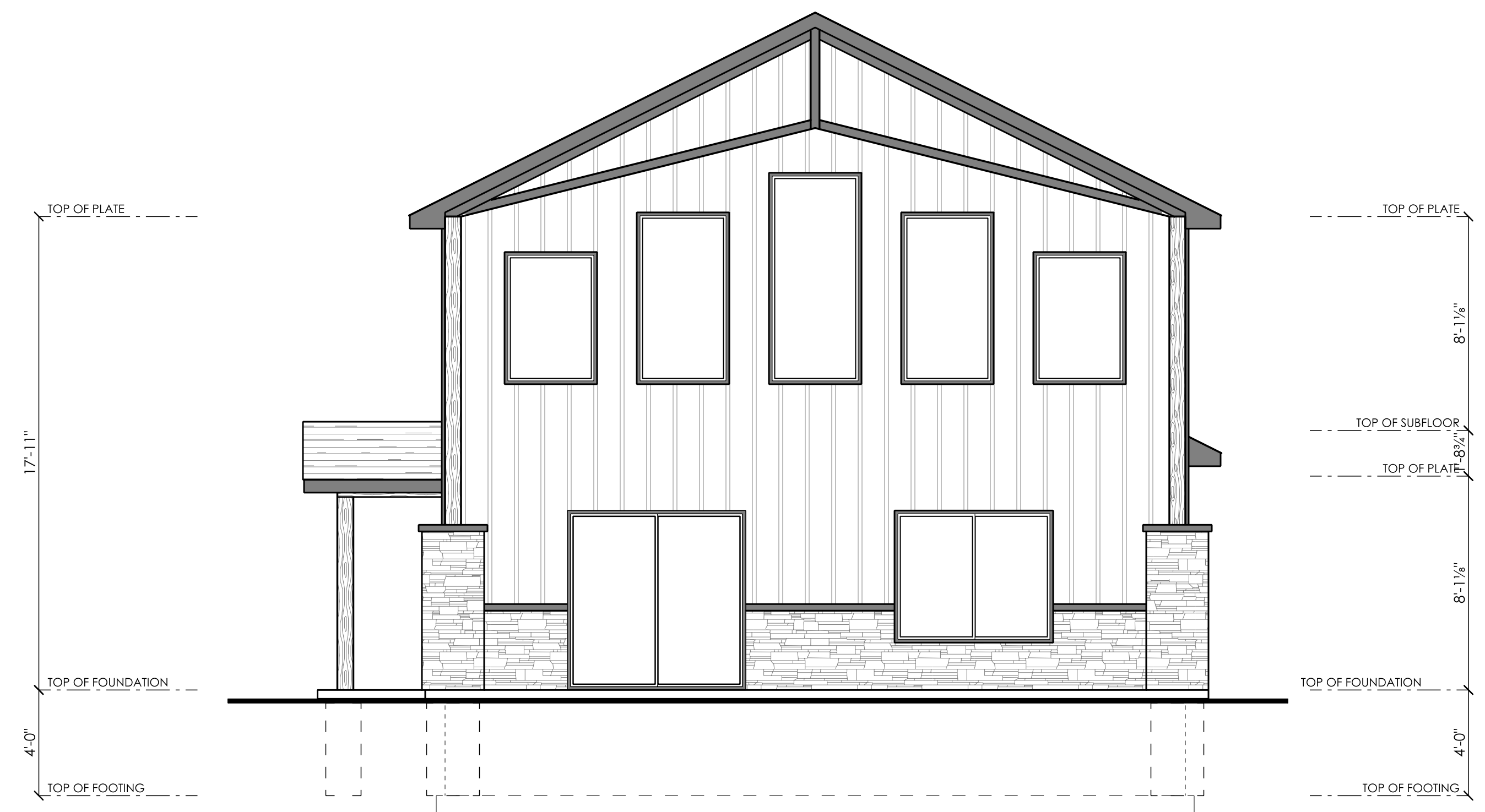
**LOAD CASE(S)** Standard

**IMPORTANT**  
THIS DOCUMENT IS THE PROPERTY OF TERRY & DAWN BAHR. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF TERRY & DAWN BAHR. ANY UNAUTHORIZED USE OF THIS DOCUMENT IS STRICTLY PROHIBITED. THE USER OF THIS DOCUMENT AGREES TO HOLD TERRY & DAWN BAHR HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST OR INCURRED BY TERRY & DAWN BAHR AS A RESULT OF THE USER'S USE OF THIS DOCUMENT. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.

DATE:  
February 14, 2024

REVISED:

DRAWN BY:  
D.J.C



**FRONT ELEVATION**  
SCALE: 1/4" = 1'-0"



**LEFT ELEVATION**  
SCALE: 1/4" = 1'-0"

C:\DANK FILES (2017-2021)\PROJECTS\FOULDER - 2017-2022\TERRY & DAWN BAHR\TS-1400-121223\TS-1400-121223

**TERRY & DAWN BAHR**

PROJECT REFERENCE | TS-1400-121223

ELEVATIONS

**A1.1**

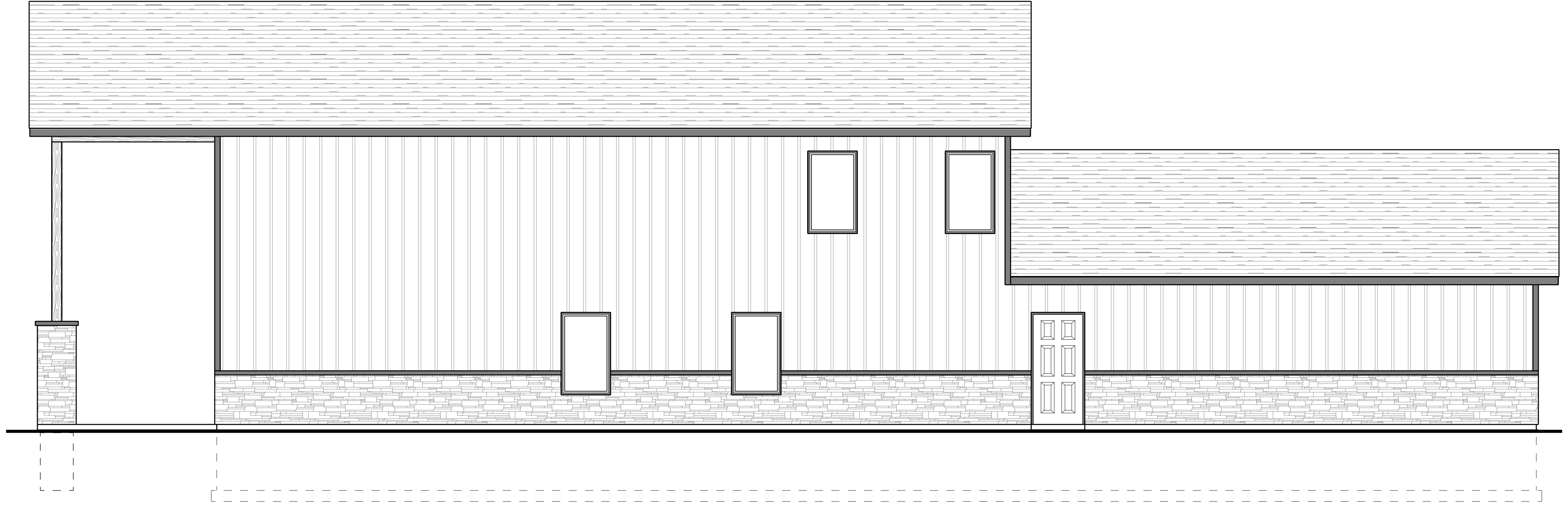
**KNIFE GRIP**  
**Home Care**  
 The Home Care Professionals of America

THIS DOCUMENT IS THE PROPERTY OF TERRY & DAWN BAHR. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF TERRY & DAWN BAHR. ANY UNAUTHORIZED USE OF THIS DOCUMENT IS STRICTLY PROHIBITED. THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE OR INJURY RESULTING FROM THE USE OF THIS DOCUMENT. THE USER AGREES TO HOLD TERRY & DAWN BAHR HARMLESS FROM AND AGAINST ALL SUCH LIABILITY. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.

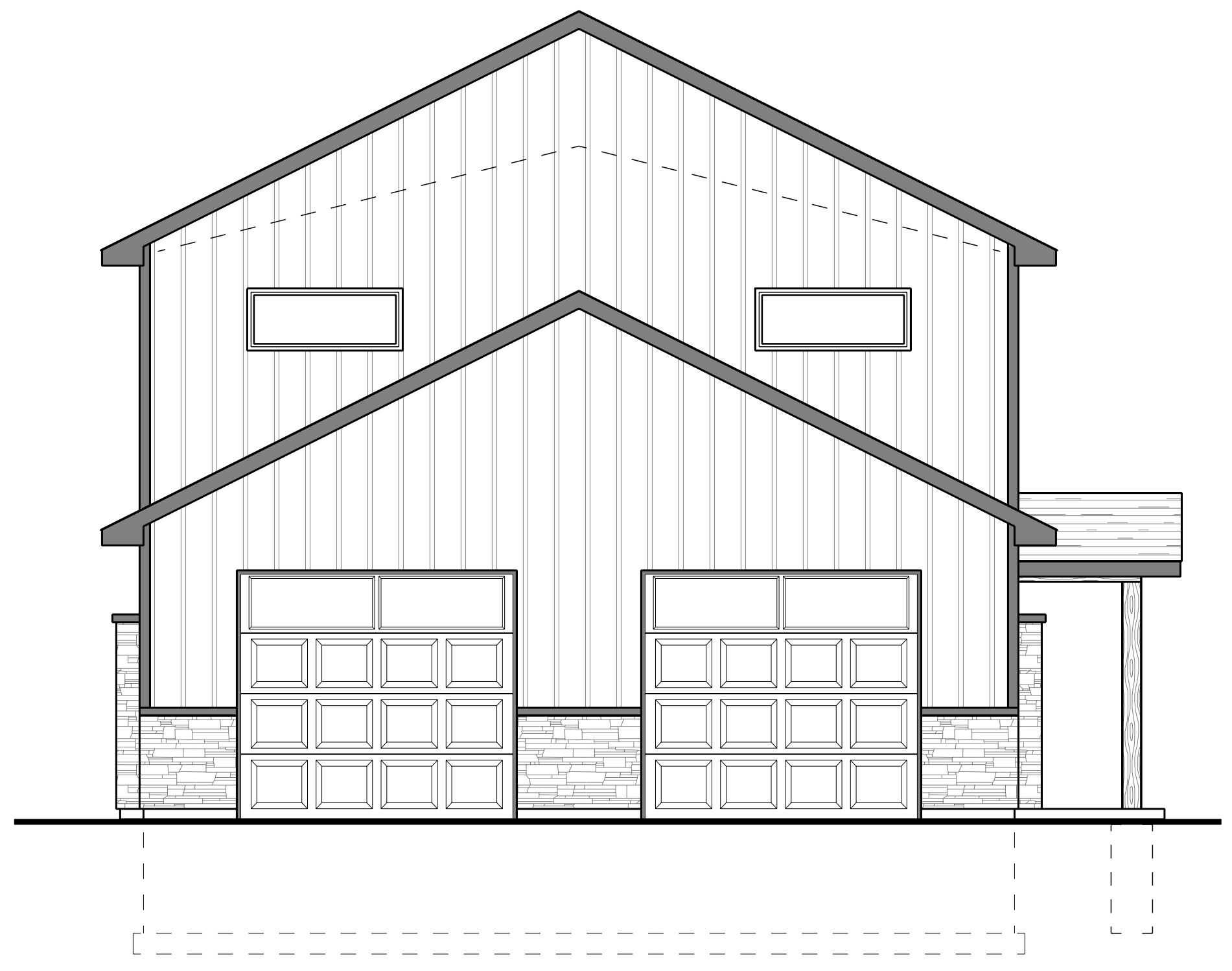
**IMPORTANT**

DATE: February 14, 2024  
 REVISED:

DRAWN BY:  
 D.J.C.



**RIGHT ELEVATION**  
 SCALE: 1/4" = 1'-0"

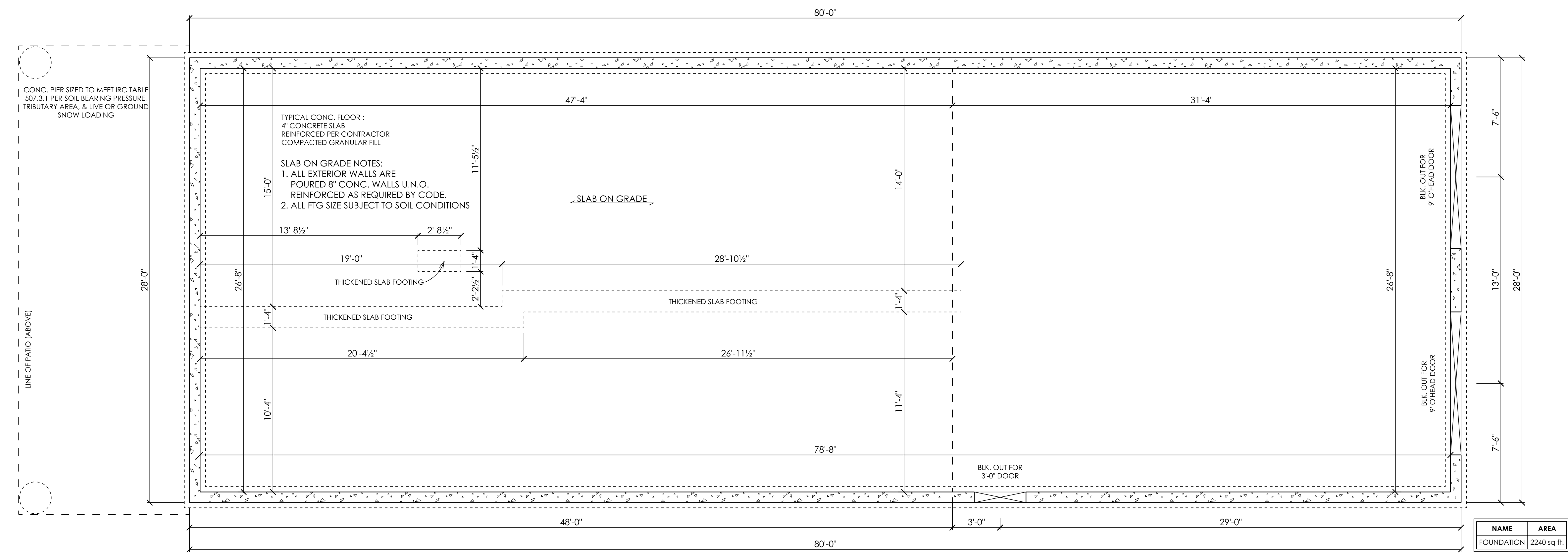


**REAR ELEVATION**  
 SCALE: 1/4" = 1'-0"

**IMPORTANT**  
THIS DRAWING IS THE PROPERTY OF THE ARCHITECT. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE, REPRODUCTION, OR MODIFICATION OF THIS DRAWING WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT IS STRICTLY PROHIBITED. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THIS DRAWING. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND REGULATORY APPROVALS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED AND DOES NOT EXTEND TO ANY OTHER MATTER. THIS DRAWING IS PROVIDED AS A GUIDE ONLY AND DOES NOT CONSTITUTE A CONTRACT. THE CONTRACT DOCUMENTS SHALL CONTROL IN THE EVENT OF A DISCREPANCY.

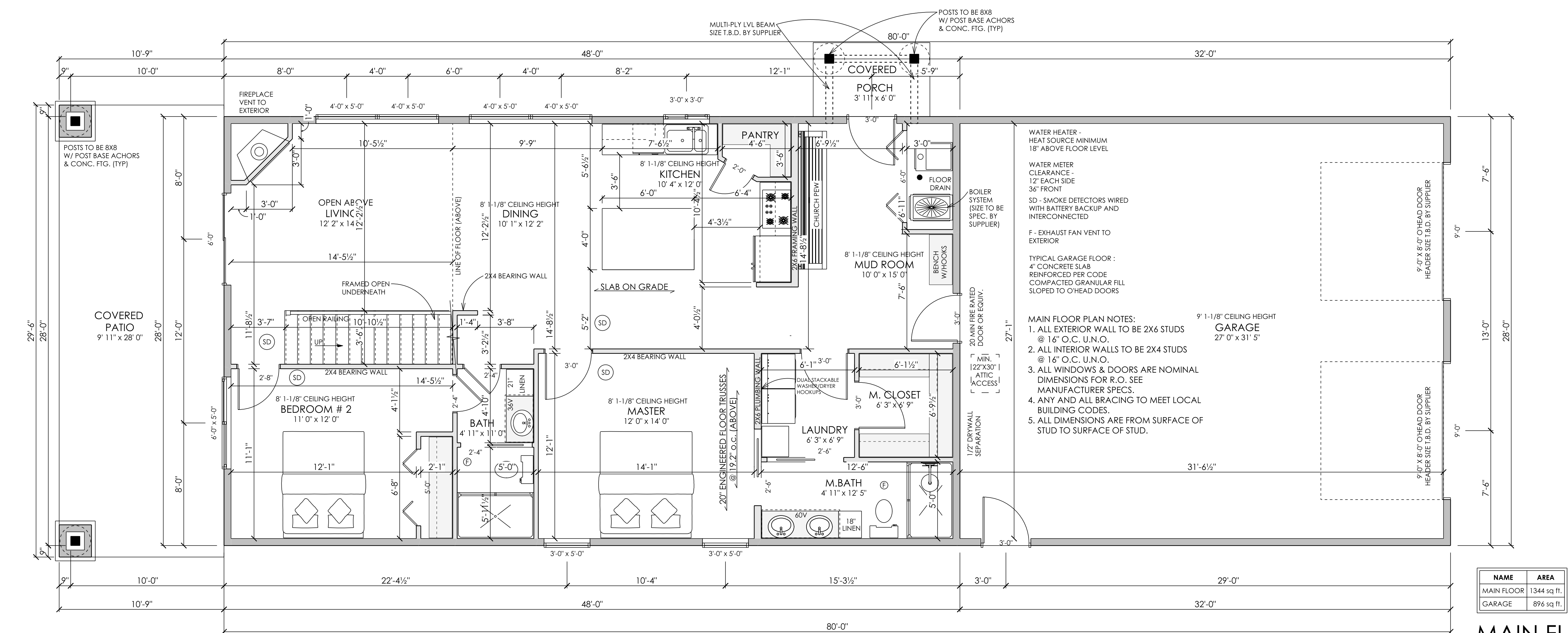
DATE:  
February 14, 2024  
REVISED:

DRAWN BY:  
D.JC

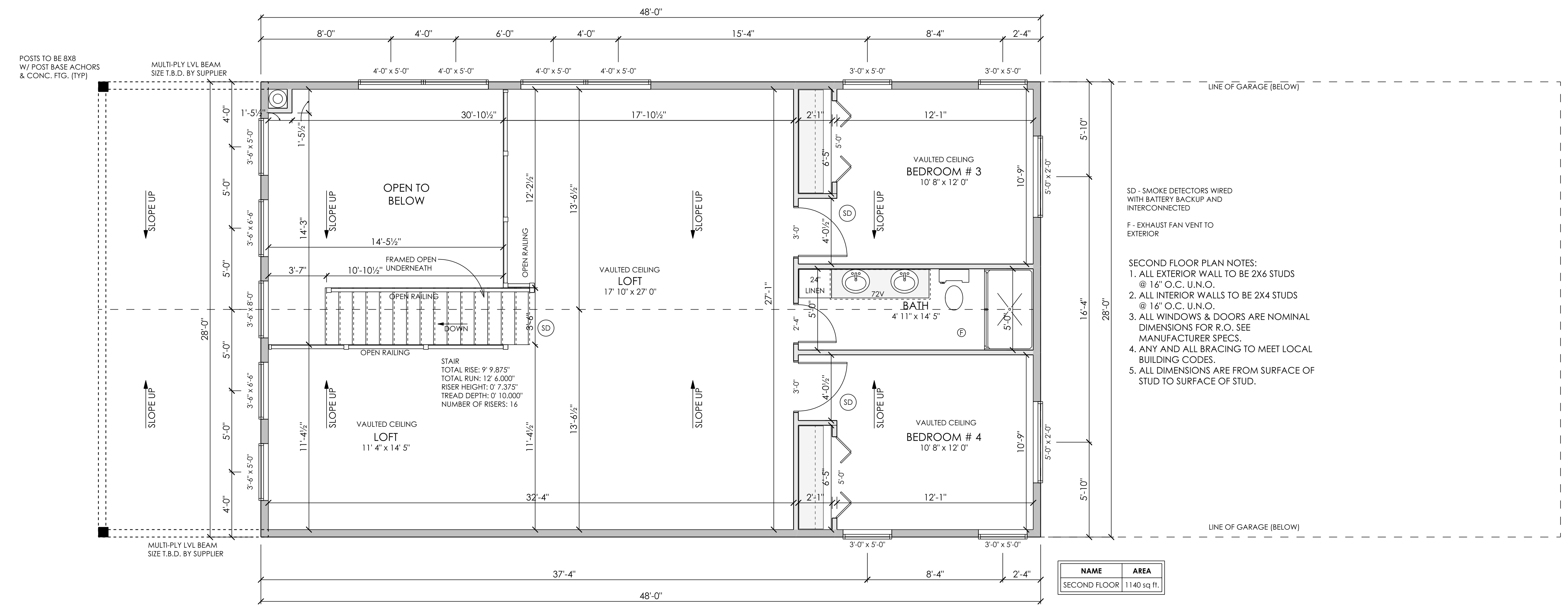


**FOUNDATION PLAN**  
SCALE: 1/4" = 1'-0"



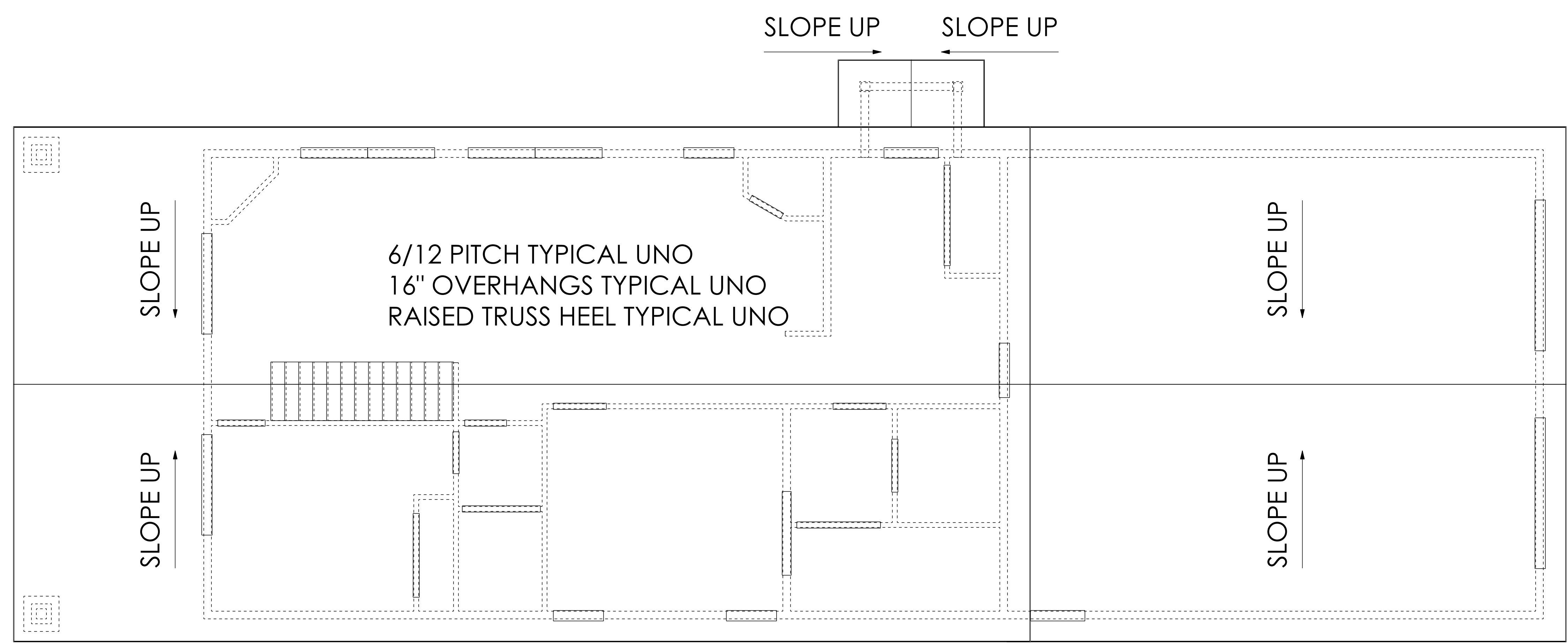


**MAIN FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"

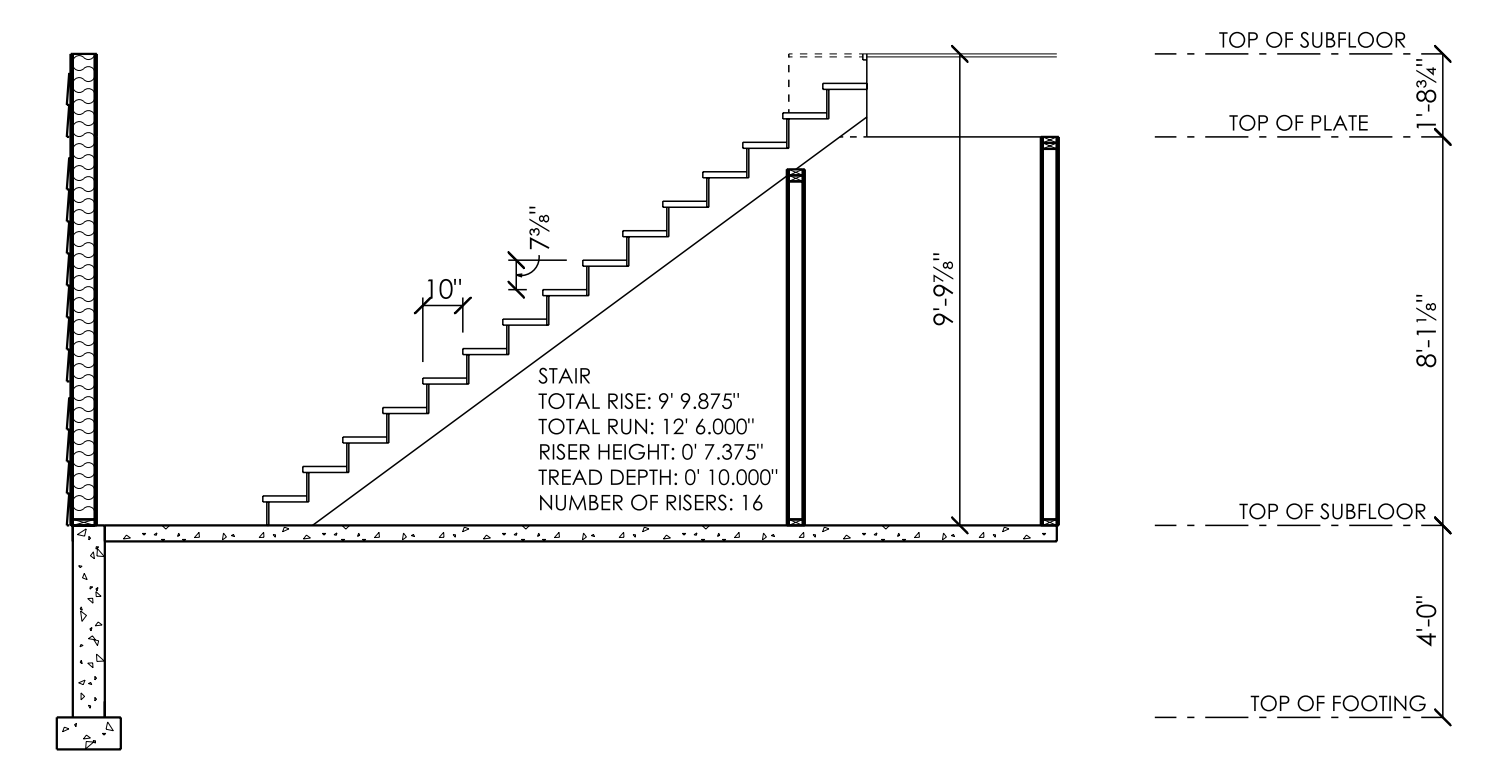


**SECOND FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

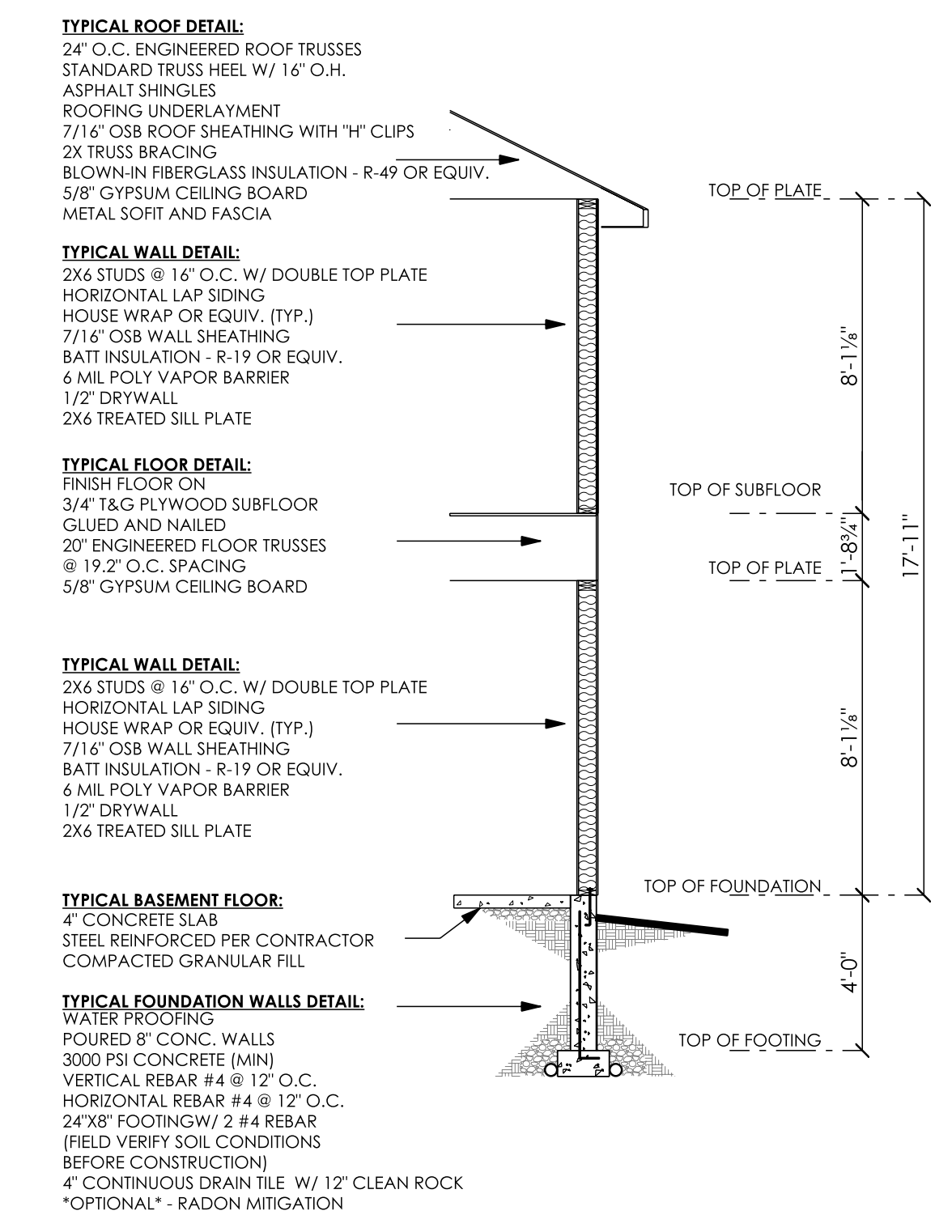




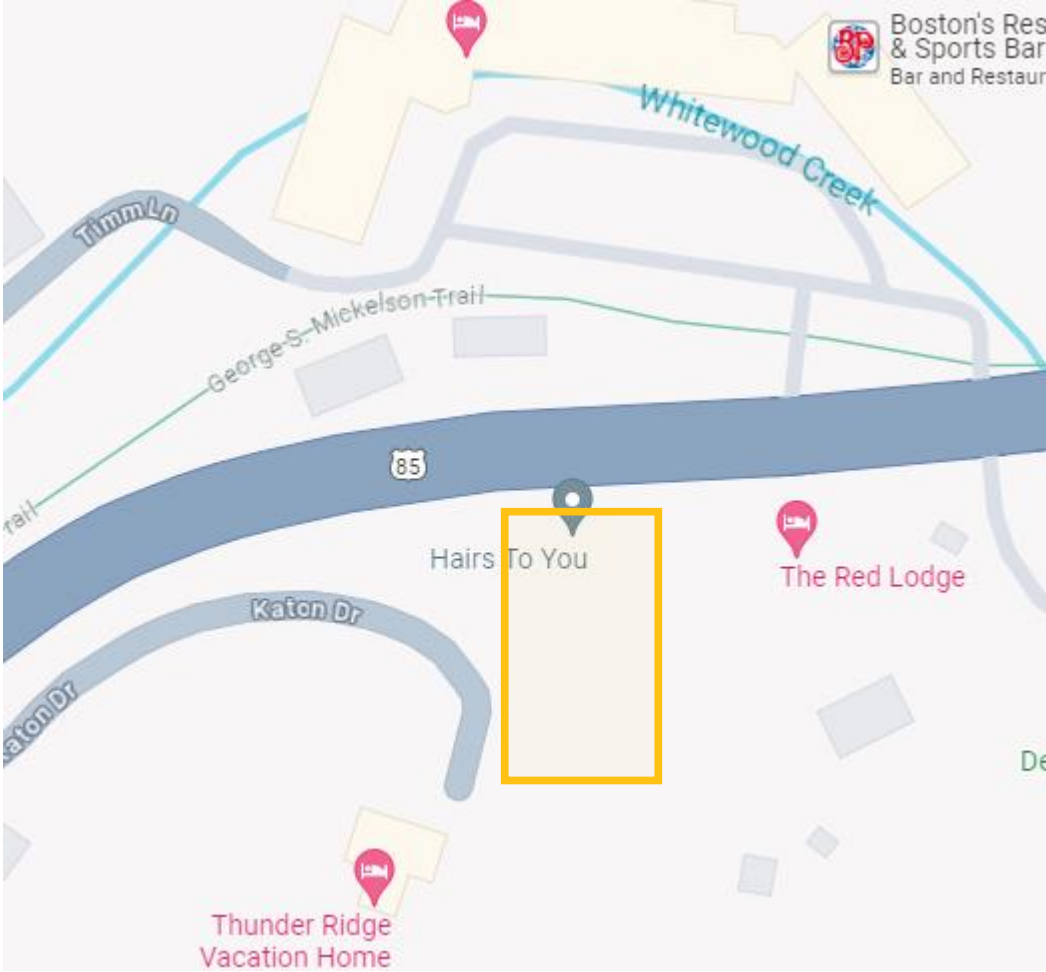
**BIRDS EYE PLAN**  
SCALE: 1/4" = 1'-0"



**STAIR SECTION**  
SCALE: 1/4" = 1'-0"



**TYPICAL SECTION**  
SCALE: 1/4" = 1'-0"



Map of 307 Cliff Street, Deadwood, SD 57732.





Aerial view of 307 Cliff Street, Deadwood, SD 57732.



**NOTICE OF PUBLIC HEARING  
BEFORE THE BOARD OF ADJUSTMENT**

City of Deadwood  
Planning and Zoning Commission  
Deadwood, South Dakota 57732

**NOTICE IS HEREBY GIVEN**, that the following person(s) has applied to the City of Deadwood Planning and Zoning Office for a Conditional Use Permit to construct a Dwelling Unit, Single Family within a district zoned CH - Commercial Highway as allowed under Section 17.40.030 Conditional Uses.

**APPLICANTS:** Terry and Dawn Bahr

**LEGAL DESCRIPTION:** LOT 1 REVISED OF THE SUBDIVISION OF TRACT E-1 FORMERLY LOT 1 OF THE SUBDIVISION OF TRACT E-1 BEING A PORTION OF HILLSIDE PLACER M.S. 749 LOCATED IN THE SE ¼ OF SECTION 27, T5N, R3E, B.H.M. CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.

**ADDRESS:** 307 Cliff Street

**ZONE:** CH – Commercial Highway

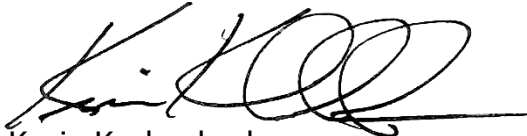
**NOTICE IS FURTHER GIVEN** that said application will be heard by the Board of Adjustment within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held Monday, July 15, 2024, in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter at which time and place any such person interested may appear and show cause if there be any, why such special exception should not be granted.

**NOTICE IS FURTHER GIVEN**, that the proposed request for a Dwelling Unit, Single Family is on file and available for public examination at the Deadwood Zoning Office located at 108 Sherman Street, Deadwood, South Dakota.

**ANY** interested person or his/her agent is invited to submit oral or written comments or suggestions regarding the request to the Commissions or their agent prior to or at the public hearing.

Dated this 5<sup>th</sup> July 2024

City of Deadwood, Lawrence County, South Dakota



Kevin Kuchenbecker  
Planning, Zoning and Historic Preservation Officer

**PUBLISH:** Black Hills Pioneer: \_\_\_\_\_, 2024

Published once at the total approximate cost of \$ \_\_\_\_\_

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 722-0786



**Kevin Kuchenbecker**  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

## Public Notification

---

Date: June 13, 2024  
To: Deadwood Property Owner / Resident  
From: Kevin Kuchenbecker  
Planning, Zoning & Historic Preservation Officer  
RE: Request for Conditional Use Permit for Dwelling Unit, Single Family

---

**NOTICE IS HEREBY GIVEN**, that the following person(s) has applied to the City of Deadwood Planning and Zoning Office for a Conditional Use Permit for the construction of a Dwelling Unit, Single Family as allowed under Section 17.40.030 Conditional Uses under CH – Commercial Highway.

**APPLICANT(S):** Terry and Dawn Bahr

**LEGAL DESCRIPTION:** LOT 1 REVISED OF THE SUBDIVISION OF TRACT E-1 FORMERLY LOT 1 OF THE SUBDIVISION OF TRACT E-1 BEING A PORTION OF HILLSIDE PLACER M.S. 749 LOCATED IN THE SE ¼ OF SECTION 27, T5N, R3E, B.H.M. CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.

**ADDRESS:** 307 Cliff Street

**NOTICE IS FURTHER GIVEN** that said application will be heard by the Planning and Zoning Commission within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held Wednesday, July 3, 2024, in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 4:00 p.m. or soon thereafter as the matter at which time and place any such person interested may appear and show cause if there be any, why such special exception should not be granted. A public hearing will also be held by the Deadwood City Commission at 5:00 p.m. on Monday, July 15, 2024, at the same location.

**NOTICE IS FURTHER GIVEN**, that the proposed request to construct a Dwelling Unit, Single Family is on file and available for public examination at the Deadwood Planning and Zoning Office located at 108 Sherman Street, Deadwood, South Dakota.

**ANY** interested person or his/her agent is invited to submit oral or written comments or suggestions regarding the request to the Commissions or their agent prior to or at the public hearing.

The purpose of this mailed notice is to reasonably inform the surrounding property owners of the applications for a Conditional Use Permit and to inform you of the type of use being requested.

If you have any questions, please feel free to contact our office at 605-578-2082.



OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 722-0786



**Kevin Kuchenbecker**  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

---

## FINDINGS OF FACT AND CONCLUSION CONDITIONAL USE PERMIT

---

Date: July 15, 2024  
From: Kevin Kuchenbecker, Planning, Zoning & Historic Preservation Officer  
Leah Blue-Jones, Zoning Coordinator  
RE: Conditional Use Permit – Vacation Home Establishment

---

**APPLICANT(S):** Glen and Sherry Morovits  
**PURPOSE:** Conditional Use Permit – Vacation Home Establishment  
**ADDRESS:** 140 Timm Lane  
Deadwood, Lawrence County, South Dakota  
**LEGAL DESCRIPTION:** Lot 6 of the Arnio Subdivision of M.S. 107, according to S.C. Berry plat recorded in Plat Book 2 page 88d, City of Deadwood, Lawrence County, South Dakota.  
**ASSESSORS NO.:** 30900-00107-010-60

**RE: Request for Conditional Use Permit**

WHEREAS the above application for a Conditional Use Permit for a Vacation Home Establishment in the CH – Commercial Highway zoning district came on review before the Deadwood Planning and Zoning Commission on Wednesday, May 1, 2024. The application was recommended for approval by the Deadwood Planning and Zoning Commission. The Deadwood Board of Adjustment approved the request for a Vacation Home Establishment at 140 Timm Lane, as recommended by the Planning and Zoning Commission, on Monday, May 20, 2024.

WHEREAS, all present members of the Deadwood Planning and Zoning Commission and the Deadwood Board of Adjustment having reviewed the Conditional Use Permit request and having considered all comments offered and all the evidence and testimony presented for the application; and, after discussion and consideration of the application and being fully advised in the premises, the Deadwood Planning and Zoning Commission and Deadwood Board of Adjustment hereby enter their:

Findings of Fact and Conclusion – Conditional Use Permit  
Hidden Gulch Cabin  
July 15, 2024

---

## **FINDINGS OF FACT AND CONCLUSION**

---

- Staff provided public notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Section 17.76.020. Notice was placed in the designated newspaper of the City of Deadwood, ten (10) days in advance of the hearing as required by Section 17.76.060.J.
- An official sign was posted on the property for which the Conditional Use would occur.
- Property owners within three hundred (300) feet of the boundaries of the subject land were notified by first class mail as required by Section 17.76.060.J.
- The subject area is zoned CH – Commercial Highway. The area near the subject property consists of residences and undeveloped land.
- The use, as proposed, would not result in a substantial or undue adverse effect on adjacent property or the character of the neighborhood and the use would not alter the character of the area.
- The granting of the Conditional Use Permit would not increase the proliferation of non-conforming uses. Use is expressly allowed in the CH – Commercial Highway District under certain conditions and the conditions were met.
- The use would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services. This type of use does not demand a high degree of services.
- Based on these findings, the Deadwood Planning and Zoning Commission recommended approval of the request for a Conditional Use Permit for a Vacation Home Establishment. The Deadwood Board of Adjustment approved the request as recommended by the Planning and Zoning Commission with the following conditions:
  1. The Conditional Use Permit runs with the applicant and not the land; therefore, should the property be sold, the Conditional Use Permit is null and void.
  2. Proof of a state sales tax number has been provided to the Planning and Zoning Office for their files.
  3. The Building Inspector has inspected the building to ensure all

Findings of Fact and Conclusion – Conditional Use Permit  
Hidden Gulch Cabin  
July 15, 2024

---

building codes are met.

- 4. Proper paperwork has been filed with the City of Deadwood Finance Office for BID taxes.
- 5. A City of Deadwood Business License has been obtained.
- 6. Lodging License obtained after inspection from the South Dakota Department of Health.
- 7. Compliance with all city ordinances shall continue to be met.

**ATTEST:**

---

Jessicca McKeown, Finance Officer  
City of Deadwood  
/ / /2024

---

David Ruth, Mayor  
City of Deadwood  
/ / /2024

---

John Martinisko, Chairman  
Planning and Zoning Commission  
/ / /2024

---

David Bruce, Secretary  
Planning and Zoning Commission  
/ / /2024



OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 722-0786



**Kevin Kuchenbecker**  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

## **MEMORANDUM**

---

**Date:** July 15, 2024  
**To:** City Commission  
**From:** Kevin Kuchenbecker,  
Planning, Zoning and Historic Preservation Officer  
**Re:** Temporary Vendors License Application – Ray Drea Studios, LLC

---

The Planning & Zoning Office has received a Temporary Vendors License Application from Ray Drea Studios, LLC. The request is to sell fine art and paintings during the Sturgis Rally beginning August 1, 2024, and continuing through August 11, 2024.

The application was received more than 60 days prior to the start of the event.

Ray Drea Studios, LLC has a South Dakota Sales Tax Number.

Ray Drea Studios, LLC will be selling inside of 629 Main Street

This vendor has operated annually in Deadwood for several years and has met all legal requirements set forth in Deadwood Codified Ordinances.

The Planning and Zoning Commission approved the Temporary Vendors License Application on Wednesday, July 3, 2024.

**Recommended Motion:**

*Approve/Deny the Temporary Vendors License Application for Ray Drea Studios, LLC.*

Return Completed Form To:  
**Planning and Zoning**  
108 Sherman Street  
Deadwood, SD 57732



Questions Contact:  
**Kevin Kuchenbecker**  
(605) 578-2082 or  
kevin@cityofdeadwood.com

Application Date: 6.12.24

### APPLICATION FOR TEMPORARY VENDORS LICENSE

The Deadwood Zoning Administrator and Planning & Zoning Commission review all applications.

**Applicants:** Application must be received **60 days prior** to start of event. Please read thoroughly prior to completing this form. Only complete applications will be considered for review.

Applicant: Ray Drea Telephone: (414) 526-7222

Name of Business: Ray Drea Studios LLC Telephone: (\_\_\_\_) \_\_\_\_\_

Applicant's Mailing Address: 125 Steeple Pointe Ct. Delafield WI 53018  
Street City State Zip

Please select your type of vending:

\* Outside of a Structure – \$750.00 \_\_\_\_\_

\* Inside of an Existing Structure – \$250.00 X

For a period of fourteen (14) days: Beginning: 8/1/24  
Ending: 8/11/24

South Dakota Sales Tax Number: 5001-9683-SE

Physical Street Address of Vending Location: 629 Main St., Deadwood, SD 57732

Contact Name and Phone Number of Property Owners: Ken Gienger 605-639-3004

Complete Description of Goods and/or Services: Fine art paintings for sale

**I agree that any falsification, misstatements or omissions, including those related to location and goods to be sold, shall result in immediate revocation of this license and forfeiture of the right to operate within the City Limits of Deadwood. It is further understood that payment of applicable state and city sales tax is made a provision of this license.**

Applicant's signature:  Date submitted: 6.12.24

Fee: \$ \_\_\_\_\_ Paid On \_\_\_\_\_ Receipt Number \_\_\_\_\_

PLANNING AND ZONING ADMINISTRATOR:			
Approved/P&Z Administrator:	Yes	No	Signature: _____ Date: _____
PLANNING AND ZONING COMMISSION:			
Approved/P&Z Commission:	Yes	No	Date: _____

Reason for Denial (if necessary): \_\_\_\_\_



Jacobs Precision Welding

Date: February 15, 2024

To: City of Deadwood

Qty	Description	Line Total
1.00	Fabricate snow box	\$11,000.00
1.00	Paint snow box	\$2,446.45

Subtotal \$13,446.45

Total \$ 13,446.45

Thank you for your business!

107 - 114th St, Deadwood, SD 57524 | 605-578-1495 | 605-526-2621 | jacobsprecision.com



# Utility Service Co., Inc.

## Water Tank Maintenance Contract

Owner: City of Deadwood  
Deadwood, SD

Tank Size/Name: 400,000 Gallon-G.S.T. McGovern Tank

Location: 398 McGovern

Date Prepared: June 19, 2019





### WATER TANK MAINTENANCE CONTRACT

This Contract entered into by and between the **City of Deadwood, whose business address is 62 Dunlap, Deadwood, SD 57732** (hereinafter referred to as "the Owner") and Utility Service Co., Inc., whose business address is 1230 Peachtree Street NE, Suite 1100, Atlanta, GA 30309 (hereinafter referred to as "the Company").

Therefore, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Owner and the Company, the parties agree as follows:

The Owner agrees to engage the Company to provide the professional service needed to maintain its **400,000** gallon water storage tank located at **398 McGovern, Deadwood, SD 57732** (hereinafter "tank").

**1. Company's Responsibilities.** This Contract outlines the Company's responsibility for the care and maintenance of the above described water storage tank. Care and maintenance include the following:

- A. The Company will annually inspect and service the tank. The tank and tower will be thoroughly inspected to ensure that the structure is in a sound, watertight condition.
- B. Washout inspections are included on the existing PAX MP contract for the McGovern Tank dated August 25, 2016.
- C. The Company shall furnish engineering and inspection services needed to maintain and repair the tank and tower during the term of this Contract. The repairs include: steel parts, expansion joints, water level indicators, sway rod adjustments, and manhole covers/gaskets.
- D. The Company will clean and repaint the interior and/or exterior of the tank at such time as complete repainting is needed. The need for interior painting is to be determined by the thickness of the existing liner and its protective condition. When interior repainting is needed, procedures as outlined in A.W.W.A.-D102 specifications for cleaning and coating of potable water tanks will be followed. Only material approved for use in potable water tanks will be used on any interior surface area. The need for exterior painting is to be determined by the appearance and protective condition of the existing paint. At the time the exterior requires repainting, the Company agrees to paint the tank with the same color paint and to select a coating system which best suits the site conditions, environment, and general location of the tank. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the **State of South Dakota**, the American Water Works Association, and the Society for Protective Coatings as to surface preparation and coating materials.
- E. A lock will be installed on the roof hatch of the tank.

F. The Company will provide emergency services, when needed, to perform all repairs covered under this Contract. Reasonable travel time must be allowed for the repair unit to reach the tank site.

G. The Company will furnish pressure relief valves, if requested by the Owner, so that the Owner can install the valves in its water system while the tank is being serviced.

H. The Company will furnish current certificates of insurance coverage to the Owner.

I. In the event that the Owner will not release the tank for service or is the cause of unreasonable delay in the performance of any service herein, the Company reserves the right to renegotiate the annual fees, and the Owner agrees to renegotiate the annual fees in good faith. In addition, the Owner hereby agrees that the Company can replace a washout inspection with a visual inspection, ROV inspection, or UAV inspection without requiring modification of this Contract.

**2. Contract Price/Annual Fees.** The tank shall receive an exterior renovation, interior renovation and repairs prior to the end of Contract Year 3. The first two (2) annual fees shall be \$2,000.00 per Contract Year. The annual fee for Contract Years 3 through 8 shall be \$24,770.00 per Contract Year. The annual fee for Contract Year 9 shall be \$10,430.00. Each anniversary thereafter, the annual fee shall be adjusted to reflect the current cost of service. The adjustment of the annual fee shall be limited to a maximum of 5% annually. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this Contract. A "Contract Year" shall be defined as each consecutive 12-month period following the first day of the month in which the Contract is executed by the Owner and each subsequent 12-month period thereafter during the time the Contract is in effect. For example, if a contract was signed by an Owner on April 17, 2012, Contract Year 1 for that contract would be April 1, 2012 to March 31, 2013, and Contract Year 2 for that contract would be April 1, 2013 to March 31, 2014 and so on.

**3. Payment Terms.** The annual fee for Contract Year 1, plus all applicable taxes, shall be due and payable upon execution of the contract. Each subsequent annual fee, plus all applicable taxes, shall be due and payable on the first day of each Contract Year, thereafter. (Note: Due to the length of time that it takes to perform the initial renovation project, it is possible that two (2) annual fees could fall within one budget year for the Owner). Furthermore, if the Owner elects to terminate this Contract prior to remitting the first eight (8) annual fees, then unpaid balance of the first eight (8) annual fees shall be due and payable within thirty (30) days of the Company's receipt of the Owner's Notice to Terminate.

**4. Structure of Tank.** The Company is accepting this tank under program based upon its existing structure and components. Any modifications to the tank, including antenna installations, shall be approved by Utility Service Co., Inc., prior to installation and may warrant an increase in the annual fee.

**5. Environmental, Health, Safety, or Labor Requirements.** The Owner hereby agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of this Contract. Said modification of this Contract will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

The parties agree that the Company's annual fees are based on the Owner's representation that the work to be performed under this Contract is not subject to prevailing wage requirements. The Owner agrees to notify the Company immediately, if the Company's work is (or will become) subject to prevailing wage requirements, so that the Company may submit revised amounts for annual fees.

**6. Excluded Items.** This Contract does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tank at anytime during the term of the Contract; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (6) negligent acts of Owner's employees, agents or contractors; (7) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves; (8) repairs to the foundation of the tank; (9) any latent defects of the tank or its components (i.e., corrosion from the underside of the floor plates or corrosion in areas not accessible to maintain); (10) other conditions which are beyond the Owner's and Company's control, including, but not limited to: acts of God and acts of terrorism. Acts of terrorism include, but are not limited to, any damage to the tank or tank site which results from unauthorized entry of any kind to the tank site or tank; or (11) payment of prevailing wages at any time during the term of the contract.

**7. Termination.** The Owner shall have the right to continue this Contract for an indefinite period of time providing payment of the annual fees is in accordance with the terms herein. This Contract is subject to termination by the Owner only if written notice of intent to terminate is received by the Company ninety (90) days prior to the first day of the upcoming Contract Year. Notice of Termination is to be delivered by registered mail to Utility Service Co., Inc., Attention: Customer Service, P O Box 1350, Perry, Georgia 31069, and signed by three (3) authorized voting officials of the Owner's management and/or Commissioners.

**8. Assignment.** The Owner may not assign or otherwise transfer all or any of its interest under this Contract without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Contract, until its assignee assumes in full and in writing all of the obligations of the Owner under this Contract. Any attempted assignment by Owner in violation of this provision will be void and of no effect.

**9. Indemnification.** THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF ANY ACT, OMISSION, OR REPRESENTATION OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. IN TURN, THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF ANY ACT, OMISSION, OR REPRESENTATION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS CONTRACT.

**10. Assignment of Receivables.** The Company reserves the right to assign any outstanding receivables from this Contract to its Bank or other Lending Institutions as collateral for any loans or lines of credit.

**11. Miscellaneous Items.** No modifications, amendments, or alterations of this Contract may be made except in writing signed by all the parties to this Contract. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them.

12. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

13. **Visual Inspection Disclaimer.** This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, corrosion in areas not accessible to maintain, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

This Contract is executed and effective as of the date last signed by the parties below.

OWNER:

COMPANY:

City of Deadwood

Utility Service Co., Inc.

By: [Signature]

By: [Signature]

Title: MAYOR

Title: Vice President, Legal

Print Name: DAVID R ROTH JR

Print Name: J. Shane Albritton

Date: 7/15/19

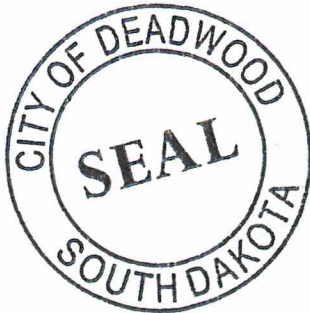
Date: June 19, 2019

Witness: [Signature]

Witness: Lara Anderson

Seal:

Seal:







# Utility Service Co., Inc.

## Water Tank Maintenance Contract

Owner: City of Deadwood  
Deadwood, SD

Tank Size/Name: 500,000 Gallon-G.S.T. McGovern Tank 2

Location: 398 McGovern

Date Prepared: June 19, 2019



## WATER TANK MAINTENANCE CONTRACT

This Contract entered into by and between the **City of Deadwood, whose business address is 62 Dunlap, Deadwood, SD 57732** (hereinafter referred to as "the Owner") and Utility Service Co., Inc., whose business address is 1230 Peachtree Street NE, Suite 1100, Atlanta, GA 30309 (hereinafter referred to as "the Company").

Therefore, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Owner and the Company, the parties agree as follows:

The Owner agrees to engage the Company to provide the professional service needed to maintain its **500,000** gallon water storage tank located at **398 McGovern, Deadwood, SD 57732** (hereinafter "tank").

1. **Company's Responsibilities.** This Contract outlines the Company's responsibility for the care and maintenance of the above described water storage tank. Care and maintenance include the following:

- A. The Company will annually inspect and service the tank. The tank and tower will be thoroughly inspected to ensure that the structure is in a sound, watertight condition.
- B. Washout inspections are included on the existing PAX MP contract for the McGovern Tank 2 dated August 25, 2016.
- C. The Company shall furnish engineering and inspection services needed to maintain and repair the tank and tower during the term of this Contract. The repairs include: steel parts, expansion joints, water level indicators, sway rod adjustments, and manhole covers/gaskets.
- D. The Company will clean and repaint the interior and/or exterior of the tank at such time as complete repainting is needed. The need for interior painting is to be determined by the thickness of the existing liner and its protective condition. When interior repainting is needed, procedures as outlined in A.W.W.A.-D102 specifications for cleaning and coating of potable water tanks will be followed. Only material approved for use in potable water tanks will be used on any interior surface area. The need for exterior painting is to be determined by the appearance and protective condition of the existing paint. At the time the exterior requires repainting, the Company agrees to paint the tank with the same color paint and to select a coating system which best suits the site conditions, environment, and general location of the tank. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the **State of South Dakota**, the American Water Works Association, and the Society for Protective Coatings as to surface preparation and coating materials.
- E. A lock will be installed on the roof hatch of the tank.

F. The Company will provide emergency services, when needed, to perform all repairs covered under this Contract. Reasonable travel time must be allowed for the repair unit to reach the tank site.

G. The Company will furnish pressure relief valves, if requested by the Owner, so that the Owner can install the valves in its water system while the tank is being serviced.

H. The Company will furnish current certificates of insurance coverage to the Owner.

I. In the event that the Owner will not release the tank for service or is the cause of unreasonable delay in the performance of any service herein, the Company reserves the right to renegotiate the annual fees, and the Owner agrees to renegotiate the annual fees in good faith. In addition, the Owner hereby agrees that the Company can replace a washout inspection with a visual inspection, ROV inspection, or UAV inspection without requiring modification of this Contract.

**2. Contract Price/Annual Fees.** The tank shall receive **an exterior renovation, interior renovation and repairs** prior to the end of Contract **Year 2**. The first annual fee for Contract **Year 1** shall be **\$2,000.00**. The annual fee for Contract **Years 2 through 7** shall be **\$28,953.00** per Contract Year. The annual fee for Contract **Year 8** shall be **\$12,878.00**. Each anniversary thereafter, the annual fee shall be adjusted to reflect the current cost of service. The adjustment of the annual fee shall be limited to a maximum of 5% annually. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this Contract. A "Contract Year" shall be defined as each consecutive 12-month period following the first day of the month in which the Contract is executed by the Owner and each subsequent 12-month period thereafter during the time the Contract is in effect. For example, if a contract was signed by an Owner on April 17, 2012, Contract Year 1 for that contract would be April 1, 2012 to March 31, 2013, and Contract Year 2 for that contract would be April 1, 2013 to March 31, 2014 and so on.

**3. Payment Terms.** The annual fee for Contract **Year 1**, plus all applicable taxes, shall be due and payable **upon execution of the contract. Each subsequent annual fee, plus all applicable taxes, shall be due and payable on the first day of each Contract Year, thereafter.** (Note: Due to the length of time that it takes to perform the initial renovation project, it is possible that two (2) annual fees could fall within one budget year for the Owner). Furthermore, if the Owner elects to terminate this Contract prior to remitting the first **seven (7)** annual fees, then unpaid balance of the first **seven (7)** annual fees shall be due and payable within thirty (30) days of the Company's receipt of the Owner's Notice to Terminate.

**4. Structure of Tank.** The Company is accepting this tank under program based upon its existing structure and components. **Any modifications to the tank, including antenna installations, shall be approved by Utility Service Co., Inc., prior to installation and may warrant an increase in the annual fee.**

**5. Environmental, Health, Safety, or Labor Requirements.** The Owner hereby agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of this Contract. Said modification of this Contract will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

The parties agree that the Company's annual fees are based on the Owner's representation that the work to be performed under this Contract is not subject to prevailing wage requirements. The Owner agrees to notify the Company immediately, if the Company's work is (or will become) subject to prevailing wage requirements, so that the Company may submit revised amounts for annual fees.

**6. Excluded Items.** This Contract does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tank at anytime during the term of the Contract; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (6) negligent acts of Owner's employees, agents or contractors; (7) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves; (8) repairs to the foundation of the tank; (9) any latent defects of the tank or its components (i.e., corrosion from the underside of the floor plates or corrosion in areas not accessible to maintain); (10) other conditions which are beyond the Owner's and Company's control, including, but not limited to: acts of God and acts of terrorism. Acts of terrorism include, but are not limited to, any damage to the tank or tank site which results from unauthorized entry of any kind to the tank site or tank; or (11) payment of prevailing wages at any time during the term of the contract.

**7. Termination.** The Owner shall have the right to continue this Contract for an indefinite period of time providing payment of the annual fees is in accordance with the terms herein. This Contract is subject to termination by the Owner only if written notice of intent to terminate is received by the Company ninety (90) days prior to the first day of the upcoming Contract Year. Notice of Termination is to be delivered by registered mail to Utility Service Co., Inc., Attention: Customer Service, P O Box 1350, Perry, Georgia 31069, and signed by three (3) authorized voting officials of the Owner's management and/or Commissioners.

**8. Assignment.** The Owner may not assign or otherwise transfer all or any of its interest under this Contract without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Contract, until its assignee assumes in full and in writing all of the obligations of the Owner under this Contract. Any attempted assignment by Owner in violation of this provision will be void and of no effect.

**9. Indemnification.** THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF ANY ACT, OMISSION, OR REPRESENTATION OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. IN TURN, THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF ANY ACT, OMISSION, OR REPRESENTATION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS CONTRACT.

**10. Assignment of Receivables.** The Company reserves the right to assign any outstanding receivables from this Contract to its Bank or other Lending Institutions as collateral for any loans or lines of credit.

**11. Miscellaneous Items.** No modifications, amendments, or alterations of this Contract may be made except in writing signed by all the parties to this Contract. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them.



12. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

13. **Visual Inspection Disclaimer.** This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, corrosion in areas not accessible to maintain, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

This Contract is executed and effective as of the date last signed by the parties below.

OWNER:

COMPANY:

City of Deadwood

Utility Service Co., Inc.

By: [Signature]

By: [Signature]

Title: MAYOR

Title: Vice President, Legal

Print Name: David R Ruth Jr

Print Name: J. Shane Albritton

Date: 7/15/19

Date: June 19, 2019

Witness: [Signature]

Witness: [Signature]

Seal:

Seal:



OFFICE OF  
PLANNING, ZONING AND  
HISTORIC PRESERVATION  
108 Sherman Street  
Telephone (605) 578-2082  
Fax (605) 722-0786



Kevin Kuchenbecker  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

## MEMORANDUM

---

**Date:** July 11, 2024  
**To:** Deadwood City Commission  
**From:** Kevin Kuchenbecker, Planning, Zoning & Historic Preservation Officer  
**Re:** Change Order #1 – 74 Van Buren Retaining Wall

---

Branch Construction has submitted a change order request to Albertson Engineering, Inc. for the 74 Van Buren Retaining Wall Project:

- The request is to increase the overall limits of the new retaining wall to be extended 4 feet beyond the original extents at both ends of the wall.

The original project cost is \$55,000.00. Change Order #1 will increase the project cost \$5,900.00. This will bring the total contract cost to \$60,900.00.

Staff and the project engineer have reviewed the request as submitted.

### **MOTION:**

*Move to accept change order number one to increase the contract amount by \$5,900.00 for extending the retaining wall 4 feet beyond the original extents on both ends of the wall located at 74 Van Buren for a total project cost of \$60,900.00.*



**Albertson Engineering Inc.**

**605-343-9606**

**[www.albertsonengineering.com](http://www.albertsonengineering.com)**

*3202 W. Main, Suite C  
Rapid City, SD 57702*

*315 N. Main Ave., Suite 200  
Sioux Falls, SD 57104*

*201 S. Monroe St., Suite 203A  
Winner, SD 57580*

**CONSTRUCTION CHANGE ORDER NO. 1**

Project: 74 Van Buren Retaining Wall

AEI Project #: 2023-240

Owner: City of Deadwood

Engineer: Albertson Engineering Inc.

Contract Date: March 18, 2024

Date of Issuance: 7/9/2024

Issued to: Branch Construction Services LLC

Distribution to:  Owner  Engineer  Contractor

**YOU ARE HEREBY DIRECTED TO MAKE THE FOLLOWING CHANGES IN THIS CONTRACT:**

1. As per homeowner request, the overall limits of the new retaining wall shall be extended 4 feet beyond the original extents at both ends of the wall. Cost is \$5,900.00.

---

**Not valid until signed by both the Owner and Contractor. Signature of the Contractor indicates his/her agreement herewith, including any adjustment in the Contract Sum or Contract Time.**

---

**CONTRACT STATUS:**

The Original Contract Sum	\$ 55,000.00
Net Change by Previously Authorized Change Orders	\$ --
Contract Sum Prior to This Change Order	\$ 55,000.00
Contract Sum Increase Per This Change Order	\$ 5,900.00
New Contract Sum Will Be	\$60,900.00

The Contract Time Will Be changed per the following:

September 30, 2024 – Substantial Completion





**AUTHORIZED SIGNATURES**

The persons executing this Agreement hereby represent that they have authorization to sign

\_\_\_\_\_  
Owner *(Signature)*

\_\_\_\_\_  
Contractor *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*

**CITY OF DEADWOOD**

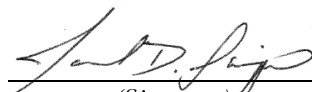
**BRANCH CONSTRUCTION**

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Email*

\_\_\_\_\_  
*Email*

  
\_\_\_\_\_  
Engineer *(Signature)*

Jared Schippers, PE, Principal  
\_\_\_\_\_  
*(Printed name and title)*

**ALBERTSON ENGINEERING INC.**

7/9/2024  
\_\_\_\_\_  
*Date*

[jared@albertsonengineering.com](mailto:jared@albertsonengineering.com)  
\_\_\_\_\_  
*Email*



## Jared Schippers

---

**From:** glenn fasnacht <glenn.fasnacht@gmail.com>  
**Sent:** Monday, July 8, 2024 2:21 PM  
**To:** Jared Schippers  
**Cc:** Kevin Kuchenbecker; Chris Dale; Justin Lockhart  
**Subject:** 74 Van Buren Wall Change Order Proposal

Jared,

Good day. I'm back from Alaska- I got covid at the end, so have been home resting. Here is the proposal for the wall extensions/angled ends. We integrated the efficiencies you mentioned, and good news- shaved 25%!

Regardless of this change order, we are requesting an **extension for the deadline, to September 30th**, or one month. Getting everything in order and the exact plan in place has led to delays. The structural wall will be done in July, but we may need more time to get everything else completed. One example is claiming more veneer rock from the city pile.

...

**Description of Changes** - Angle both ends of the wall outward, dropping height as needed, extending wall length up to (likely) 8 feet.

**Reason for Changes** - The natural shape and grade of the hill at both ends warrants this change, as it bows out and gains steepness there. Otherwise, a straight wall will dive into the hill and especially on the left, the maximum natural grade of 45% will require additional shoring in some fashion, such as a secondary wall(s) above.

**Additional Information** - The new ends will cant out at about 20 degrees. The right side will drop down to about 4 feet high, and the left about 5. Right side will extend about 4 feet, and the left side 2 to 4, depending on how the hillside excavates.

**Cost Increase** - This change will require additional quantities for all material: rebar and concrete, additional forms: length and hinged corners to remain monolithic, and additional labor and complexity.

**Cost Breakdown:**

Additional forms: \$250  
 Concrete: 3 yards/\$700  
 Gravel: 2 tons/\$30  
 Rock: 2 tons/\$40  
 Rebar: 2 sticks of each/\$80  
 Mortar: \$100  
 Fabric: \$150  
 Tile: \$50  
 Labor: \$4,500

**Total additional cost: \$5,900**

...

I'm comfortable with these changes. The extra materials are straight costs of \$1,400, and don't assume another "delivery fee." The added labor is for additional excavation, forming, bending and inserting rebar, pouring, building tile and fabric/backfilling, and finally/mostly, masonry on the veneer. Just a little more of everything.

Kevin mentioned on the phone that the city needs to be considerate of the taxpayer's impact. I agree, and note that there's good reason our bid is \$77,000 lower than the next-lowest bid. That's because I am the one paying for much of this, and we're not profit-based, but rather completion oriented.

Basically, everything is already as cheap as could possibly be. RCS, the next-lowest bidder at \$132k (let's not forget the \$330k bid), would already have a wide margin in place and might be able to absorb such a change. Or maybe they wouldn't care enough to make this change, which is in line with our ultimate goal... Not just to preserve this wall, but to protect the historical house below it.

I've been living here, it's my home, and I want to see it preserved both structurally and with historic value. Therefore, I think that when considering the big picture, this change is warranted, and the additional cost fits well within reason.

After you review this, if you have questions or concerns, please give me a call so we can collaborate.

Thank you all for your time,  
Glenn  
719-650-4618



**Albertson Engineering Inc.**

605-343-9606

[www.albertsonengineering.com](http://www.albertsonengineering.com)

3202 W. Main, Suite C  
Rapid City, SD 57702

315 N. Main Ave., Suite 200  
Sioux Falls, SD 57104

201 S. Monroe St., Suite 203A  
Winner, SD 57580

**CONSTRUCTION CHANGE ORDER NO. 6**

Project: Whitewood Creek Restoration – Bid Package 1

AEI Project #: 2020-096.1

Owner: City of Deadwood

Engineer: Albertson Engineering Inc.

Contract Date: August 1, 2023

Date of Issuance: 7/9/2024

Issued to: RCS Construction, PO BOX 9337, Rapid City, SD 57709

Distribution to:  Owner  Engineer  Contractor

**YOU ARE HEREBY DIRECTED TO MAKE THE FOLLOWING CHANGES IN THIS CONTRACT:**

As per the following documents:

1. Cost Proposal #13R by RCS Construction, credit of \$5,352.00
  - o Breakdown: credit is \$17,191.00 (from PR#13) minus \$11,839 (from PR#13R).
  - o Scope of work concerned Mickelson Trail asphalt and the \$17,191 was from Change Order #5.
2. Cost Proposal #14 by RCS Construction, \$16,710.
  - o Scope of work is to remove and replace additional paving at Deadwood Dental’s parking lot.
3. Cost Proposal #15 by RCS Construction, \$30,280.
  - o Scope of work is to remove and replace additional paving at 3 Ryan Rd.

**CONTRACT STATUS:**

The Original Contract Sum	\$7,575,000.00
Net Change by Previously Authorized Change Orders	\$ 121,653.91
Contract Sum Prior to This Change Order	\$7,696,653.91
Contract Sum Increase Per This Change Order	\$ 41,638.00
New Contract Sum Will Be	\$7,738,291.91

The Contract Time will be not be adjusted. The project schedule remains as:

Site 1C & 2A:

May 26, 2024 – Substantial Completion  
June 16, 2024 – Final Completion

Site 2B:

June 19, 2024 – Substantial Completion  
July 10, 2024 – Final Completion

Site 3A:

December 1, 2024 – Substantial Completion  
December 15, 2024 – Final Completion

Site 3B:

March 15, 2024 – Site available to Contractor  
October 7, 2024 – Substantial Completion  
October 21, 2024 – Final Completion

---

**Not valid until signed by both the Owner and Contractor. Signature of the Contractor indicates his/her agreement herewith, including any adjustment in the Contract Sum or Contract Time.**

---



**AUTHORIZED SIGNATURES**

The persons executing this Agreement hereby represent that they have authorization to sign:

\_\_\_\_\_  
Owner *(Signature)*

\_\_\_\_\_  
Contractor *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*

**CITY OF DEADWOOD**

**RCS CONSTRUCTION**

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Email*

\_\_\_\_\_  
*Email*

  
\_\_\_\_\_  
Engineer *(Signature)*

Jared Schippers, PE, Principal  
\_\_\_\_\_  
*(Printed name and title)*

**ALBERTSON ENGINEERING INC.**

7/9/2024  
\_\_\_\_\_  
*Date*

[jared@albertsonengineering.com](mailto:jared@albertsonengineering.com)  
\_\_\_\_\_  
*Email*





May 20, 2024

Jared Schippers, PE  
[jared@albertsonengineering.com](mailto:jared@albertsonengineering.com)  
 Albertson Engineering Inc.  
 3202 West Main Street, Suite C  
 Rapid City SD 57702

COST FOR THIS WORK WAS  
 INCLUDED IN CHANGE ORDER #5.  
 CHANGE ORDER #6 CREDITS THE  
 DIFFERENT BETWEEN CP#13  
 AND CP#13R

RE: Whitewood Creek Restoration, Deadwood SD  
 Sites 1C, 2A, 2B, 3A, & 3B  
**Cost Proposal #13 – Asphalt Replacement on Mickelson Trail (Phase 1C)**

Dear Jared,

We are pleased to provide you with the following cost proposal for replacing the asphalt pavement surface on the Mickelson Trail between the Phase 1C parking area and the first bridge on the Mickelson Trail. RCS is proposing to remove the existing asphalt and prep the grade at no additional cost. The City of Deadwood would pay for the new 3-inch thick asphalt surface. We believe this is a good opportunity to provide a new asphalt surface in this area of the Mickelson Trail without paying additional mobilization costs or removal costs. Please respond within 1 day to ensure no additional paving mobilizations will be charged.

**Remove & Replace 326 Ft Section of Mickelson Trail = \$17,191.00**

We appreciate the opportunity to provide this proposal and should you have any questions or comments please don't hesitate to contact our office.

Kind Regards,

*Reid Hansen*

Reid Hansen, Project Manager

Safety • Quality • Communication • Timeliness

P.O. Box 9337 • Rapid City, SD 57709  
 Phone (605) 342-3787 • Fax (605) 348-4041

[www.rcsconst.com](http://www.rcsconst.com)





June 4, 2024

Jared Schippers, PE  
[jared@albertsonengineering.com](mailto:jared@albertsonengineering.com)  
 Albertson Engineering Inc.  
 3202 West Main Street, Suite C  
 Rapid City SD 57702

CHANGE ORDER #6 CREDITS THE  
 DIFFERENCE BETWEEN CP#13  
 AND CP#13R

RE: Whitewood Creek Restoration, Deadwood SD  
 Sites 1C, 2A, 2B, 3A, & 3B  
**REVISED Cost Proposal #13R1 – Asphalt Replacement on Mickelson Trail (Phase 1C)**

Dear Jared,

We are pleased to provide you with the following cost proposal for replacing the asphalt pavement surface on the Mickelson Trail between the Phase 1C parking area and the first bridge on the Mickelson Trail. RCS is proposing to remove the existing asphalt and prep the grade at no additional cost. The City of Deadwood would pay for the new 3-inch thick asphalt surface.

**Remove & Replace 326 Ft Section of Mickelson Trail = \$11,839.00**

We appreciate the opportunity to provide this proposal and should you have any questions or comments please don't hesitate to contact our office.

Kind Regards,  
*Reid Hansen*  
 Reid Hansen, Project Manager

Safety • Quality • Communication • Timeliness

P.O. Box 9337 • Rapid City, SD 57709  
 Phone (605) 342-3787 • Fax (605) 348-4041  
[www.rcsconst.com](http://www.rcsconst.com)







June 28, 2024

Jared Schippers, PE  
[jared@albertsonengineering.com](mailto:jared@albertsonengineering.com)  
Albertson Engineering Inc.  
3202 West Main Street, Suite C  
Rapid City SD 57702

RE: Whitewood Creek Restoration, Deadwood SD  
Sites 1C, 2A, 2B, 3A, & 3B  
**Cost Proposal #14 – Additional Concrete Replacement at Deadwood Dental (Phase 2B)**

Dear Jared,

We are pleased to provide you with the following cost proposal for replacing additional concrete pavement at the Deadwood Dental Office located at 88 Charles Street in Deadwood. The plan quantity for PCC paving replacement is 130 SY (note 14 on Sheet C-405). Additional area was required. The as-built concrete area is 353 SY. Total cost of the additional concrete pavement is \$33,420.00. RCS Construction is proposing to share the cost of the additional concrete at this location 50/50 with the City of Deadwood because RCS was able to use this location for access to the creek and may have contributed to some concrete damage.

**Total Cost Additional Concrete at Deadwood Dental = \$16,710.00**

We appreciate the opportunity to provide this proposal and should you have any questions or comments please don't hesitate to contact our office.

Kind Regards,

*Reid Hansen*

Reid Hansen, Project Manager

Safety • Quality • Communication • Timeliness

P.O. Box 9337 • Rapid City, SD 57709  
Phone (605) 342-3787 • Fax (605) 348-4041

[www.rcsconst.com](http://www.rcsconst.com)





July 2, 2024

Jared Schippers, PE  
[jared@albertsonengineering.com](mailto:jared@albertsonengineering.com)  
 Albertson Engineering Inc.  
 3202 West Main Street, Suite C  
 Rapid City SD 57702

RE: Whitewood Creek Restoration, Deadwood SD  
 Sites 1C, 2A, 2B, 3A, & 3B  
**Revised Cost Proposal #15R – Additional Concrete Replacement and House  
 Downspout Connection at 3 Ryan Road (Phase 3B)**

Dear Jared,

We are pleased to provide you with the following cost proposal for replacing additional concrete pavement and connecting the house downspout to the 48" storm sewer pipe at 3 Ryan Road also known as Jobman House. The plan quantity for concrete driveway replacement is 187 SY (note 5 on sheet C-605). The total existing driveway concrete was surveyed by TDG to be 365 SY. The additional concrete replacement is 178 SY. The price below includes 178 SY of removal, base course, and new concrete pavement.

<b>178 SY of Additional Concrete Driveway =</b>	<b>\$29,192.00</b>
<b>Connect 1 Each Downspout to 48" Storm Pipe =</b>	<b><u>\$ 1,088.00</u></b>
<b>Total Cost Proposal #15R=</b>	<b>\$30,280.00</b>

We appreciate the opportunity to provide this proposal and should you have any questions or comments please don't hesitate to contact our office.

Kind Regards,

*Reid Hansen*

Reid Hansen, Project Manager

Safety • Quality • Communication • Timeliness

P.O. Box 9337 • Rapid City, SD 57709  
 Phone (605) 342-3787 • Fax (605) 348-4041

[www.rcsconst.com](http://www.rcsconst.com)

