

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

September 15, 2014

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, September 15, 2014 at 6:30 P.M.

The following members were present: Mayor Sam Kooiker and the following Alderpersons: Amanda Scott, Darla Drew, Chad Lewis, Charity Doyle, Jerry Wright, Brad Estes, Ritchie Nordstrom, John B. Roberts, Ron Weifenbach and Steve Laurenti; and the following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included: Finance Officer Pauline Sumption, City Attorney Joel Landeen, Public Works Director Terry Wolterstorff, Community Planning and Development Services Director Brett Limbaugh, Police Chief Karl Jegeris, Fire Chief Mike Maltaverne and Parks and Recreation Director Jeff Biegler and Administrative Coordinator Sharlene Mitchell

**ADOPTION OF AGENDA**

Motion was made by Scott, second by Estes and carried to adopt the agenda.

**AWARDS AND RECOGNITIONS**

Mayor Kooiker and Alderpersons Doyle and Weifenbach presented the Veteran of the Month for September 2014 to Joshua Kosola and recognized his efforts and dedication to the service of his country and community.

Mayor Kooiker and Alderpersons Estes and Drew presented the Beautification Committee Yard of the Month Award for September 2014 to Diane and Gordon Paulson, 4134 Canyon Lake Drive. Cathy Robeson presented the gift certificate to Paulson.

Mayor Kooiker, Darla Drew and Sustainability Committee members Mike Bender and Eirik Heikes presented the Sustainability Award to the General Beadle students and Morgan VonHaden, North Rapid Community Coordinator, in recognition of the General Beadle Elementary School Community Gardens.

**EXECUTIVE SESSION**

Motion was made by Lewis, second by Drew and carried to go into Executive Session at 6:52 p.m. to consult with legal counsel regarding ADA issues at the Rushmore Plaza Civic Center. Motion was made by Lewis, second by Laurenti and carried to come out of Executive Session at 7:15 p.m. with all members present. Landeen indicated that the purpose of the Executive Session was to advise Council of the correspondence received from the Department of Justice regarding the Civic Center ADA violations proposed settlement agreement. Landeen advised that staff is working with the Department of Justice noting the timetable for presentation of the settlement agreement to the Civic Center Board and Council.

**NON-PUBLIC HEARING ITEMS**

**CONSENT ITEMS**

The following items were removed from the Consent Items

22. No. PW090914-18 – Approve with the Requirement to Sign a Waiver of Right to Protest a Request from Joseph Kuhlman for Deuce Properties, LLC for a Variance to Waive the Requirement to Install Sidewalk per City Ordinance 12.08.060 Along Concourse Drive for the Property Located at 1511 Concourse Drive.

35. No. LF091014-13 – Authorize Mayor and Finance Officer to Sign Engagement Letter with Dorsey & Whitney LLP for Bond Counsel Services for the Proposed Civic Center Expansion Project

Motion was made by Estes, second by Laurenti and carried unanimously to approve Items 4 – 47 as they appear on the Consent Items with the exception of Items 22 and 35.

**Approve Minutes**

4. Approve Minutes for the September 2, 2014 Regular Council meeting.

**Alcoholic Beverage License Applications Set for Hearing (October 6, 2014)**

5. Rapid City Downtown Association for a SPECIAL EVENT Wine License for a Special Event scheduled for October 16, 2014 at Tuscany Square, 333 Omaha Street (Black Hills Interiors, Kitchen Tune Up, The Mane Boutique, Sibelle Salon & Spa, Yuppy Puppy and Children's Trading Post)

**Public Works Committee Consent Items**

6. No. PW090914-02 – Approve Change Order No. 1 to Mainline Contracting Inc. for West Chicago Street Utilities Breakout Project, Project No. 14-2161 / CIP No. 50448.1, for a decrease of \$104,551.01.
7. No. PW090914-03 – Approve Change Order No. 1F to MAC Construction Company for WRF Algae Control Improvements, Project No. 14-2158 / CIP No. 50971, to increase the contract time 2 days with no change in contract price.
8. No. PW090914-04 – Approve Change Order No. 2 to Scull Construction Services Inc. for Canyon Lake Dam Reconstruction, Project No. PW08-1743 / CIP No. 50739, for an increase of \$134,830.65.
9. No. PW090914-05 – Approve Change Order No. 8F to Dean Kurtz Construction Company for Elk Vale Lift Station Upgrades, Project No. 11-1999 / CIP No. 50728, for an increase of \$622.50.
10. No. PW090914-06 – Approve Change Order No. 1F to Stanley J Johnsen Concrete Contractor for Knollwood Dr. and Haines Ave. Intersection Improvements, Project No. 13-2122 / CIP No. 50965, for a decrease of \$2,721.18.
11. No. PW090914-08 – Authorize Staff to Advertise for Bids for Equipment Rental Rates for Snow Removal Operations. Estimated Cost: \$50,000.00.
12. No. PW090914-09 – Authorize Staff to Advertise for Bids for Ice Sanding Material. Estimated Cost: \$100,000.00.
13. No. PW090914-11 – Authorize Mayor and Finance Officer to Sign Resolution No. 2014-085 a Construction Fee Resolution for Heidiway Lane Utility Extension, Project No. 12-2054 - Water Extension Fee.

RESOLUTION NO. 2014-085  
CONSTRUCTION FEE RESOLUTION FOR HEIDIWAY LANE UTILITY EXTENSION  
PROJECT NO. 12-2054 – WATER MAIN EXTENSION

WHEREAS, Section 13.04.190 of the Rapid City Municipal Code (RCMC) authorizes the City Council to require properties benefited by the construction of water pipes or mains to pay their proportionate share of the cost to construct such water pipe or main prior to being allowed to connect to the City's water utility; and

WHEREAS, a 10" water main was extended in Heidiway Lane per City Project No. 12-2054 and

WHEREAS, the total cost of constructing this water main was \$128,494.89; and

WHEREAS, the City's engineering staff had identified the total area that will benefit from construction of this water main, as shown on Exhibit A, which has been attached hereto and incorporated herein; and

WHEREAS, the City's Public Works Director is recommending the cost to construct this main to be paid by the properties which will benefit from its construction prior to such properties being served by the City's water utility; and

WHEREAS, the City's Public Works Director is recommending the construction cost be apportioned to the benefiting area shown on Exhibit A be based on the benefits that accrue to such property, and as such, should be established on a per property basis; and

WHEREAS, the City Council, having considered the recommendation of the City's Public Works Director and having made such investigation as it finds necessary, determines that it is in the best interests of the City and its water utility that the owners of properties within the benefitting area should pay their proportionate share of the cost to construct this project on a per property basis.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that prior to being allowed to connect to the City's water system, the owners of property in the benefiting area shown in Exhibit A shall be required to pay a proportionate share of the cost of constructing the 10" water main shown in City Project No. 12-2054; and

BE IT FURTHER RESOLVED that the owners of the property shown on Exhibit A shall pay \$14,277.21 to connect to the City's water utility; and

BE IT FURTHER RESOLVED that all construction fees collected as established herein shall accrue to the water utility enterprise fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the balance of the project costs totaling \$128,494.89 has been collected, at which time this Resolution and the utility construction fee shall automatically expire.

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

- 14. No. PW090914-12 – Authorize Mayor and Finance Officer to Sign Resolution No. 2014-086 a Construction Fee Resolution for Fulton Street Sewer and Water Extension, Project 12-2000 - Non-conforming Water Fee.

RESOLUTION 2014-086

CONSTRUCTION FEE RESOLUTION FOR FULTON STREET SEWER AND WATER EXTENSION  
PROJECT 12-2000 NON-CONFORMING WATER

WHEREAS, Section 13.04.190 of the Rapid City Municipal Code (RCMC) authorizes the City Council to require properties benefited by the construction of water pipes or mains to pay their proportionate share of the cost to construct such water pipe or main prior to being allowed to connect to the City's water utility; and

WHEREAS, an 8" water main was extended in Fulton Street per City Project No. 12-2000 and

WHEREAS, this project was constructed in order to eliminate non-conforming sewer lines pursuant to Section 13.12 of the RCMC; and

WHEREAS, the total cost of constructing this water main was \$74,194.63; and

WHEREAS, of this amount \$25,937.11 is the portion of the total cost which is attributable to elimination of the non-conforming water lines; and

WHEREAS, the City will pay \$18,155.97 of this cost pursuant to Section 13.12.020 of the RCMC; and

WHEREAS, the City's engineering staff had identified the total area that will benefit from construction of this water main, as shown on Exhibit B, which has been attached hereto and incorporated herein; and

WHEREAS, the City's Public Works Director is recommending the cost to construct this water main to be paid by the properties which will benefit from its construction prior to such properties being served by the City's water utility; and

WHEREAS, the City's Public Works Director is recommending the construction fees to be apportioned to the benefiting area shown on Exhibit B be apportioned based on the benefits that accrue to such property, and as such, should be established on a per-property basis; and

WHEREAS, the City Council, having considered the recommendation of the City's Public Works Director and having made such investigation as it finds necessary, determines that it is in the best interests of the City and its water utility that the owners of properties within the benefitting area should pay their proportionate share of the cost to construct this project on a per property basis.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that prior to being allowed to connect to the City's water system, the owners of property in the benefiting area shown in Exhibit B shall be required to pay a proportionate share of the cost of constructing the 8" water main shown in City Project No. 12-2000; and

BE IT FURTHER RESOLVED that the owners of the property shown on Exhibit B shall pay \$1,556.23 to connect to the City's water utility; and

BE IT FURTHER RESOLVED that all construction fees collected as established herein shall accrue to the water utility enterprise fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the balance of the recoverable project costs totaling \$7,781.14 has been collected, at which time this Resolution and the utility construction fee shall automatically expire.

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

- 15. No. PW090914-13 – Authorize Mayor and Finance Officer to Sign Resolution No. 2014-087 a Construction Fee Resolution for Fulton Street Sewer and Water Extension, Project 12-2000 - Water Extension Fee.

RESOLUTION NO. 2014-087  
CONSTRUCTION FEE RESOLUTION FOR FULTON STREET SEWER AND WATER EXTENSION  
PROJECT 12-2000 WATER EXTENSION

WHEREAS, Section 13.04.190 of the Rapid City Municipal Code (RCMC) authorizes the City Council to require properties benefited by the construction of water pipes or mains to pay their proportionate share of the cost to construct such water pipe or main prior to being allowed to connect to the City’s water utility; and

WHEREAS, an 8” water main was extended in Fulton Street per City Project No. 12-2000. and

WHEREAS, the total cost of constructing this water main was \$74,194.63 and

WHEREAS, of this amount \$5,187.42 is the portion of the total cost which is attributable to extension of new public water lines; and

WHEREAS, the City’s engineering staff had identified the total area that will benefit from construction of this water main, as shown on Exhibit A, which has been attached hereto and incorporated herein; and

WHEREAS, the City’s Public Works Director is recommending the cost to construct this main was to be paid by the properties which will benefit from its construction prior to such properties being served by the City’s water utility; and

WHEREAS, the City’s Public Works Director is recommending the construction cost be apportioned to the benefitting area shown in Exhibit A based on the benefits that accrue to such property, and as such, should be established on a front footage basis; and

WHEREAS, the City Council, having considered the recommendation of the City’s Public Works Director and having made such investigation as it finds necessary, determines that it is in the best interests of the City and its water utility that the owners of properties within the benefitting area should pay their proportionate share of the cost to construct this project on a per property basis.

NOW THEREFORE, BE IT RESOLVED, by the City of Rapid City, that prior to being allowed to connect to the City’s water system, the owners of property in the benefitting area shown in Exhibit A shall be required to pay a proportionate share of the cost of constructing the 8” water main shown in City Project No. 12-2000; and

BE IT FURTHER RESOLVED that the owners of the property shown on Exhibit A shall pay \$5,187.42 to connect to the City’s water utility; and

BE IT FURTHER RESOLVED that all construction fees collected as established herein shall accrue to the water utility enterprise fund; and

BE IT FURTHER RESOLVED that such utility construction fees shall remain in effect until such time as the balance of the project costs totaling \$5,187.42 has been collected, at which time this Resolution and the utility construction fee shall automatically expire.

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
 Mayor

ATTEST:  
s/ Pauline Sumption  
 Finance Officer

(SEAL)

16. No. PW090914-14 – Authorize Mayor and Finance Officer to Sign Amendment No. 1 to the Agreement between City of Rapid City and Ferber Engineering Company, Inc. for Design and Bidding Professional Services for Seger Drive Reconstruction - Dyess Avenue to 143<sup>rd</sup> Avenue, Project No. 11-1947 / CIP 50277.1-2, in the amount of \$35,960.00.
17. No. PW090914-15 – Authorize Mayor and Finance Officer to Sign Amendment No. 1 to Ferber Engineering Company for Wetland Mitigation Monitoring, Project No. DR10-1881, in the amount of \$10,775.00.
18. No. PW090914-16 – Authorize Mayor and Finance Officer to Sign Amendment No. 1 to the Agreement Between the City of Rapid City and the City of Box Elder for Exchange of Utility Service Areas.
19. No. PW090914-07 – Approve Change Order No. 2F to Rapid Construction Company for Leland Lane and Rushmore St. Reconstruction, Project No. 11-1951 / CIP No. 50802, for a decrease of \$87,153.54.
20. No. PW081214-10 – Acknowledge Report - Update on Alternative Funding Sources for Additional Sediment Removal for the Canyon Lake Dam Reconstruction Project.
21. No. PW090914-19 – Acknowledge Discussion on Sidewalk Assessment for Indian Health Services.

***Legal & Finance Committee Consent Items***

23. No. LF091014-01 – Confirm the Appointments of Kibbe Conti, Renee Parker, Gene Tyon, Sandy Diegel, Lloyd LaCroix, Thomas Golden, and Malcom Chapman to the Community Investment Committee
24. No. LF091014-02 – Approve Special Event Application for Destination Rapid City Free Downtown Parking on October 25, 2014
25. No. LF091014-03 – Authorize Staff to Purchase One Chevrolet Caprice in the Sum of \$27,699 Under State Bid #16543

- 26. No. LF091014-04 – Authorize Staff to Purchase Two Dodge Chargers in the Sum of \$25,848 Each Under State Bid #16547 and One Chevrolet Caprice in the Sum of \$27,699 Under State Bid #16543
- 27. No. LF091014-05 - Authorize Mayor and Finance Officer to Sign FY2015 Agreement for Domestic Violence and Sexual Assault Victim Services between the City of Rapid City and Working Against Violence, Inc.
- 28. No. LF091014-06 – Authorize Mayor and Finance Officer to Sign FY2015 Agreement for Shelter and Animal Control Services between the City of Rapid City and the Humane Society of the Black Hills, Inc.
- 29. No. LF091014-20 – Resolution No. 2014-084 to Amend the City of Rapid City Compensation Plan by Establishing a New Position (Lead Mobile Medic)

RESOLUTION NO. 2014-084  
 RESOLUTION TO AMEND THE CITY OF RAPID CITY  
 COMPENSATION PLAN BY ESTABLISHING NEW POSITION

WHEREAS, duties and responsibilities for positions within the Departments throughout the City change and evolve over time and to ensure that necessary services can be provided effectively and efficiently with the City of Rapid City, respective City Leaders request that a new position be established and added to the existing Compensation Plan; and

WHEREAS, the addition of such position does not affect respective Department's approved FTE counts; and

WHEREAS, the duties and responsibilities of the requested position has been evaluated by the City of Rapid City's Compensation Committee utilizing the Factor Evaluation System (FES) to establish the appropriate placement on the respective City of Rapid City pay scale.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rapid City that the position listed below is hereby created; and

BE IT FURTHER RESOLVED by the City Council of the City of Rapid City that the compensation plan is hereby revised as follows:

Job Title	Pay Scale	Grade	Salary Range	
			Min	Max
Lead Mobile Medic	IAFF 1040	21	\$58,232	\$87,740

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
 Mayor

ATTEST:  
s/ Pauline Sumption  
 Finance Officer

(SEAL)

- 30. No. LF091014-07 – Acknowledge July 2014 General Fund Cash Balance Report

- 31. No. LF091014-09 – Resolution No. 2014-078A Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property

RESOLUTION No. 2014-078A  
 RESOLUTION FIXING TIME AND PLACE FOR HEARING ON ASSESSMENT ROLL FOR  
 CLEANUP OF MISCELLANEOUS PROPERTY

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

- 1. The Assessment Roll for Cleanup of Miscellaneous Property was filed in the Finance Office on the 15th day of September, 2014. The City Council shall meet at the City / School Administration Center in Rapid City, South Dakota, on the 20th day of October, 2014 at 6:30 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.
- 2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time, and place of hearing thereon; that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.
- 3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her, or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
 Mayor

ATTEST:  
s/ Pauline Sumption  
 Finance Officer

(SEAL)

- 32. No. LF091014-10 – Resolution No. 2014-077 Cancelling Checks or Warrants Not Presented for Payment Within One Year of Date of Issuance

RESOLUTION #2014-077  
 RESOLUTION CANCELLING CHECKS OR WARRANTS NOT PRESENTED FOR  
 PAYMENT WITHIN ONE YEAR OF DATE OF ISSUANCE

WHEREAS SDCL 9-23-21 authorizes the governing body, by resolution, to cancel any check or warrant not presented for payment within one year of the date of issuance; and

WHEREAS the attached Appendix A contains a list of such checks not presented for payment within one year of the date of issuance; and

WHEREAS detailed information on the checks and warrants listed on Appendix A is on file and available for public inspection during normal business hours in the City Finance Office.

NOW, THEREFORE, BE IT RESOLVED that the checks shown on Appendix A totaling \$4,723.81, which have not been presented for payment within one year from the date of issuance be cancelled.



Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

33. No. LF091014-11 – Resolution No. 2014-080 Declaring Miscellaneous Personal Property Surplus

Resolution # 2014-080  
RESOLUTION DECLARING MISCELLANEOUS PERSONAL PROPERTY SURPLUS

WHEREAS the below-described property is no longer necessary, useful or suitable for municipal purposes

NOW, THEREFORE, BE IT RESOLVED that the following property be declared surplus and disposed of according to state statutes, including disposal, sale or trade-in on new equipment:

From: Cemetery Dept.  
To be used for trade-in

Sharp AR-M35OU Copier; Ser# 26513032

BE IT FURTHER RESOLVED that the Mayor and Finance Officer may do all acts necessary to dispose of this property according to state law.

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
Mayor

ATTEST:  
s/ Pauline Sumption  
Finance Officer

(SEAL)

34. No. LF091014-12 – Resolution No. 2014-079 Giving Approval to Certain Drinking Water Facilities Improvements; Giving Approval to the Issuance and Sale of a Revenue Bond to Finance, Directly or Indirectly, the Improvements to the Facilities; Approving the Form of the Loan Agreement and the Revenue Bond and Pledging Certain Revenues and Collateral to Secure the Payment of the Revenue Bond and Creating Special Funds and Accounts for the Administration of Funds for Operation of the System and Retirement of the Revenue Bond

RESOLUTION NO. 2014-079  
RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS

TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING CERTAIN REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the "Act") as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes; or any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized to issue revenue bonds to fund improvements, extensions and additions to its drinking water system by SDCL 9-40-6 and SDCL Chapter 6-8B and is authorized to pledge the net income or revenues from the system to secure such bonds; and,

WHEREAS, the City of Rapid City, South Dakota (the "City") currently operates a water distribution system to supply municipal, industrial and domestic water to its inhabitants and has determined that improvements to the drinking water facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its drinking water system; and,

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes (the "System") and has applied to the South Dakota Conservancy District (the "District") for a State Revolving Fund Loan to finance the improvements (the "Loan");

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. Declaration of Necessity and Determination of Facilities Financed. The City desires and hereby determines it is necessary to construct improvements to its drinking water facilities within its System, as described in Exhibit A hereto (the "Project"). Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby determines that the Project will substantially benefit the entire System and all of its users within the meaning of SDCL 9-40-15 and SDCL 9-40-17. Therefore, the City hereby determines that for the purposes of the Act, including, in particular, SDCL 9-40-17, the net income or revenues of the entire System, as extended, added to, or improved by the Project shall be deemed to be the net income or revenues available to be pledged to the payment of the bonds issued hereunder.

2. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which has been submitted to this Council, between the City as Borrower and the District, is hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

3. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$4,626,000 to finance costs of the Project as determined according to the Loan Agreement in the form and content set forth in Exhibit B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in SDCL 9-40-19.

4. Paying Agent/Registrar. The Revenue Bond shall be payable at the office of The First National Bank in Sioux Falls, Sioux Falls, South Dakota, hereby designated as paying agent and registrar.

5. Bond Counsel. Dorsey & Whitney LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

6. System Fund Accounts. For the purpose of application and proper allocation of the income of the System and to secure the payment of principal of and interest on the Revenue Bond, the following funds shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

(a) System Revenue Account. There shall be deposited in the System Revenue Account as received the entire gross revenues derived from the operation of the System collected pursuant to the Ordinances of the City (the "Rate Ordinance") including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys from the System Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

(b) Operation and Maintenance Account. There has been established the General Operation and Maintenance Account. Out of the remaining revenues of the System Revenue Account after application described in (c) and (d) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the remainder of the System and such current expenses for the maintenance thereof as may be necessary to preserve the remainder of such System in good repair and working order. The term current expenses shall be construed to include all reasonable and necessary costs of operating, repairing, maintaining and insuring the System, including without limitation salaries, supplies and rent, but shall exclude the General Depreciation Account and 2014 System Debt Service Account.

(c) System Debt Service Account. Out of the revenues in the System Revenue Account, there shall be set aside no later than the last day of each month into the fund designated 2014 System Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal and interest on, the Revenue Bond and any reserve determined by the City's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and other amounts payable on the following February 1, May 1, August 1, or November 1 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

(d) Depreciation Account. There has been established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month into the

General Depreciation Account an amount determined by the City Council to be a proper and adequate amount for repair and depreciation of the System.

(e) Surplus Account. There has been established the General Surplus Account. Revenues remaining in the System Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be credited to the General Surplus Account. If at any time there shall exist any default in making any periodic transfer to the 2014 System Debt Service Account, the City Council shall authorize the Finance Officer to rectify such default so far as possible by the transfer of money from the General Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above. Moneys in the General Surplus Account from time to time may be transferred into one or more of the foregoing funds.

No disbursements shall be made from the System Revenue Account except to the special funds and accounts as above provided.

7. Pledge of Revenues. The Revenue Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the 2014 System Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 7 or any other covenant or agreement in the Loan Agreement.

8. Additional Bonds. As permitted by SDCL 9-40-9, Additional Bonds payable from revenues and income of the System may be issued as permitted in the Loan Agreement and any financing agreements related to parity debt which may be outstanding, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the first lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

9. General Covenants.

(a) The City hereby covenants and agrees with the District and other owners of the Revenue Bond that it will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

(b) The City agrees and covenants that it will promptly construct the improvements included in the Project.

(c) The City covenants and agrees that pursuant to SDCL 9-40-28 and SDCL 9-40-29, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the System and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest, and Administrative Surcharge on the Revenue Bond, and the City agrees not sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

(d) The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business and that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act shall state that it is subject to all provisions and limitations thereof pursuant to SDCL 9-40-19.

(e) The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution, except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6, provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment, and provided that securities purchased for the 2014 System Debt Service Account shall be invested subject to the restrictions contained in SDCL 6-8B-54. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

(f) In the event of mismanagement of the System, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the System are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to SDCL 9-40-33, and agrees that the receiver will have the powers set forth therein, and in SDCL 9-40-34 and SDCL 9-40-35 to operate and administer the System, and charge and collect rates as described therein.

10. No Election Required. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to SDCL 9-40-15 no election is required to issue the Revenue Bond. It is hereby found and determined that the principal amount of the Revenue Bond, when added to all other indebtedness of the City subject to its general (5%) debt limit, will not exceed 5% of the assessed value of the taxable property in the City.

11. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section,

paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

12. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

13. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
 Mayor

ATTEST:  
s/ Pauline Sumption  
 Finance Officer

(SEAL)

36. No. LF091014-14 – Authorize Mayor and Finance Officer to Sign FY2013 CDBG Contract with Pennington County Health & Human Services
37. No. LF091014-15 – Authorize Mayor and Finance Officer to Sign FY2014 CDBG Contract with Pennington County Health & Human Services
38. No. LF091014-16 – Authorize Mayor and Finance Officer to Sign the State of South Dakota Agreement/Letter of Agreement with the South Dakota Department of Environment and Natural Resources for Air Quality Program
39. No. 14TP033 - Authorize Mayor and Finance Officer to Sign Professional Services Agreement between Felsburg, Holt and Ullevig for the Long Range Transportation Plan Update in an Amount not to Exceed \$133,000
40. No. 14TP040 – Authorize Mayor and Finance Officer to Sign a No-Cost Time Extension with Felsburg, Holt and Ullevig for the Completion of the Box Elder Master Transportation Plan
41. No. LF091014-17 – Authorize Mayor and Finance Officer to Sign Time Extension and Additional Project Funding for the Rapid City Historic Preservation Commission 2013-2014 CLG Grant

***Bid Award Consent Items***

42. No. CC091514-02.1 – Approve award of Total Base Bid plus Alternate for WRF Trickling Filter Rotary Distributor Arm Replacement, Project No. 14-2156 / CIP No. 50973 opened on September 9, 2014, to the lowest responsible bidder, MAC Construction Co. Inc., in the amount of \$783,060.00.
43. No. CC091514-02.2 – Approve award of Total Base Bid for Utility Maintenance Facility, Project No. 13-2120 / CIP No. 50870 opened on September 9, 2014, to the lowest responsible bidder, SECO Construction, in the amount of \$4,288,000.00.
44. No. CC091514-02.3 – Reject all Bids for Pavement Rehabilitation Project – 1st and 2nd Street, Project No. 14-2204 / CIP No. 50844 and rebid at a later date.

45. No. CC091514-02.4 – Refer the Water and Sewer Main Extension - Plum Tree Lane, Project No. 14-2151 / CIP No. 50961.1 opened on September 9, 2014 to the September 30, 2014, Public Works Committee Meeting.
46. No. CC091514-02.5 - Approve award of Total Bid for Enchanted Pines Drive Sanitary Sewer Extension, Project No. SS10-1938 / CIP No. 50859 opened on September 9, 2014, to the lowest responsible bidder, Mainline Contracting, Inc. in the amount of \$105,039.40.
47. No. CC091514-02.6 – Approve award of Base Bid for Meadowbrook Galleries Demolition Project No. 13-2129 / CIP No. 51014 opened on September 9, 2014, to the lowest responsible bidder, Mainline Contracting, Inc., in the amount of \$359,981.75.

#### END OF CONSENT ITEMS

Scott introduced the (No. PW090914-18) Request from Joseph Kuhlman for Deuce Properties, LLC. In response to a question from Scott, Wolterstorff advised that existing infrastructure would not impact the installation of sidewalks noting that staff support for the request was based on the location and proximity of other area sidewalks. In response to a question from Scott, Wolterstorff addressed the process to order in the installation of sidewalks. Motion was made by Lewis, second by Roberts and carried to (No. PW090914-18) Approve with the Requirement to Sign a Waiver of Right to Protest a Request from Joseph Kuhlman for Deuce Properties, LLC for a Variance to Waive the Requirement to Install Sidewalk per City Ordinance 12.08.060 Along Concourse Drive for the Property Located at 1511 Concourse Drive.

Motion was made by Lewis, second by Wright and carried with Weifenbach voting NO to (No. LF091014-13) Authorize Mayor and Finance Officer to Sign Engagement Letter with Dorsey & Whitney LLP for Bond Counsel Services for the Proposed Civic Center Expansion Project

#### **NON-CONSENT ITEMS**

##### ***Ordinances***

Ordinance 5998 (No. 14OA008) An Ordinance to Adopt the 2014 National Electrical Code by Amending the Rapid City Electrical Code Found in Chapter 15.16 of the Rapid City Municipal Code having passed its first reading on September 2, 2014 motion was made by Lewis, second by Roberts, that the title be read the second time. In response to a question from Mayor Kooiker, Limbaugh reviewed the process undertaken by staff to notify the affected parties. Upon vote being taken, the following voted AYE: Scott, Drew, Lewis, Doyle, Wright, Estes, Nordstrom, Roberts, Weifenbach and Laurenti; NO: None; whereupon the Mayor declared the motion passed and Ordinance No. 5998 was declared duly passed upon its second reading.

##### ***Legal & Finance Committee Items***

Motion was made by Lewis, second by Estes to (No. LF091014-18) Approve Audit Report for City of Rapid City 2013 Comprehensive Annual Financial Report (CAFR). Sumption called attention to the CAFR updates and introduced Traci Hanson with Ketel Thorstenson. Hanson presented the audit results noting the unmodified opinion issued for both the audit and compliance reports. Hanson addressed the financial statement preparation, audit adjustments, line item expenditures and segregation of duties findings noting that a corrective plan has been provided by management. In response to a question from Scott, Hanson addressed the impact staff turnover and training on certain corrective actions. In response to a question from Scott, Sumption addressed the audit deficiencies that will be addressed with the new financial software. Sumption advised that staff is researching training programs noting that the corrections will be addressed as staff becomes familiar with the city processes and the financial software. Wright requested that Ketel Thorstenson provide a one page executive summary outlining the required corrections. In response to a question from Nordstrom, Hanson addressed the CDBG grant compliance issues noting that the new Grants Manager position will assist with the correction of the issues. Sumption thanked Finance Office staff Davis, Yugas and Ward for their assistance with the audit. Motion carried.

**PUBLIC HEARING ITEMS**

Motion was made by Laurenti, second by Estes and carried unanimously to approve Items 50 and 51 as they appear on the Continued Public Hearing Consent Items and Items 52 – 56 as they appear of the Consent Public Hearing Items.

**CONTINUED PUBLIC HEARING CONSENT ITEMS*****Continue the following items until October 6, 2014:***

50. No. 14OA007 – Second Reading, Ordinance 6008, An Ordinance to Allow Child Care Centers as a Conditional Use in Light Industrial Districts by Amending Section 17.22.030 of the Rapid City Municipal Code.
51. No. 14RZ008 - Second Reading, Ordinance 6007, An Ordinance Amending Section 17.06 of Chapter 17 of the Rapid City Municipal Code, Rezoning the within Described Property as requested by Dream Design International, Inc. from Low Density Residential I to Low Density Residential II for a portion of the W1/2 of the SE1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, generally described as being located south of and adjacent to SD Highway 44 and east of and adjacent to Elk Vale Road.

**CONSENT PUBLIC HEARING ITEMS*****Alcohol Licenses***

52. Dakotah Steakhouse LLC DBA Dakotah Steakhouse, 1325 N. Elk Vale Rd for a Package (off-sale) Malt Beverage License
53. Uncork'd Wine & Tapas Bar LLC DBA Uncork'd Wine & Tapas Bar LLC, 5734 Sheridan Lake Rd #107 for a Retail (on-off sale) Wine License TRANSFER from Uncork'd Wine & Tapas Bar LLC DBA Uncork'd Wine & Tapas Bar LLC, 5734 Sheridan Lake Rd
54. Uncork'd Wine & Tapas Bar LLC DBA Uncork'd Wine & Tapas Bar LLC, 5734 Sheridan Lake Rd #107 for a Retail (on-off sale) Malt Beverage License TRANSFER from Uncork'd Wine & Tapas Bar LLC DBA Uncork'd Wine & Tapas Bar LLC, 5734 Sheridan Lake Rd
55. Rapid City Downtown Association for a SPECIAL EVENT Wine and Malt Beverage License for a Special Event scheduled for September 23, 2014 at United Way of the Black Hills, 621 6th Street

***Assessment Rolls***

56. No. LF091014-08 – Resolution No. 2014-074B Levying Assessment for Cleanup of Miscellaneous Property

## RESOLUTION NO. 2014-074B

## RESOLUTION LEVYING ASSESSMENT FOR CLEANUP OF MISCELLANEOUS PROPERTY

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

1. The City Council has made all investigations which it deems necessary and has found and determined that the amount which each lot or tract shall be benefited by the property cleanup is the amount stated in the proposed assessment roll.
2. The Assessment Roll for Cleanup of Miscellaneous Property is hereby approved and assessments thereby specified are levied against each and every lot, piece, or parcel of land thereby described.
3. Such assessments, unless paid within thirty (30) days after the filing of the assessment roll in the Office of the Finance Officer shall be collected by the City Finance Office in accordance with SDCL ch. 9-



43, as amended, and shall be payable in one annual installment bearing interest at the rate not to exceed five percent (5%).

Dated this 15th day of September, 2014.

CITY OF RAPID CITY  
s/ Sam Kooiker  
 Mayor

ATTEST:  
s/ Pauline Sumption  
 Finance Officer

(SEAL)

**BILLS**

The following bills have been audited:

**BILLIST - SEPTEMBER 15, 2014**

P/ROLL PERIOD END 09/06/14, PD 09/12/14	918,080.08
CDEV P/ROLL PERIOD END 09/06/14, PD 09/12/14	3,006.33
PIONEER BANK & TRUST, 09/06/14 P/ROLL TAXES, PD 09/12/14	226,750.80
CDEV PIONEER BANK & TRUST, 09/06/14 P/ROLL TAXES, PD 09/12/14	215.55
WELLMARK INC, HEALTH CLAIMS THROUGH 09/05/14, PD 09/11/14	140,940.37
WAGE WORKS, SECTION 125 CLAIMS THROUGH 09/01/14, PD 09/03/14	1,329.19
WAGE WORKS, SECTION 125 CLAIMS THROUGH 09/08/14, PD 09/09/14	1,695.27
FIRST ADMINISTRATORS, HEALTH/DENTAL CLAIMS THROUGH 09/02/14, PD 09/03/14	725.25
FIRST ADMINISTRATORS, HEALTH CLAIMS THROUGH 09/08/14, PD 09/10/14	1,321.00
BERKLEY ASSIGNED RISK SERVICES, AUG14 CLAIMS, PD 09/02/14	66,045.86
US BANK, CREDIT CARD CHARGES, PD 09/03/14	28,659.79
COMPUTER BILL LIST	3,524,871.21
SUBTOTAL	4,913,640.70
RSVP, P/ROLL PERIOD END 09/06/14, PD 09/12/14	3,127.57
RSVP, PIONEER BANK & TRUST, 09/06/14 P/ROLL TAXES, PD 09/12/14	238.13
RSVP, CITY-HEALTH INSURANCE TRUST, AUG14 HEALTH	1,010.00
RSVP, METROPOLITAN LIFE INSURANCE CO, SEPT14 LIFE	7.34
RSVP, RICOH USA, AUG14 COPIER	19.27
RSVP, WOW!, 394-2508 AUG14 PHONE	14.13
TOTAL	4,918,057.14

Sumption requested to add the following payments: Dean Kurtz Construction in the amount of \$622.50 and Rapid Construction in the amount of \$5,410.02. Sumption presented the new bill list total of \$4,924,089.66. Motion was made by Estes, second by Laurenti and carried to authorize (No. CC091514-01) the Finance Officer to issue warrants or treasurers checks, drawn on proper funds, in payment thereof.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Lewis, second by Weifenbach and carried to adjourn the meeting at 7:45 p.m.

CITY OF RAPID CITY

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

\_\_\_\_\_  
Mayor