

RESOLUTION #2012-007

A RESOLUTION TO DECLARE AN EMERGENCY REGARDING
DAMAGE CAUSED BY FIRE TO THE DINOSAUR PARK VISITOR CENTER

WHEREAS, the City of Rapid City (“City”) owns the property located at 940 Skyline Drive, commonly known as Dinosaur Park; and

WHEREAS, a fire on January 5, 2012, caused heavy damage to the Dinosaur Park visitor center (the “Center”); and

WHEREAS, the Center is a seasonal venture which is generally operated from May 1 to September 30 each year; and

WHEREAS, by certain concession and lease agreement commencing January 1, 2007, and certain assignment and acceptance dated June 5, 2008 (collectively the “Lease Agreement”), the City leases the Center to Charles C. McLain IV and Vicki L. McLain (collectively the “Lessees”); and

WHEREAS, pursuant to paragraph 2 of the Lease Agreement, “the Lessee[s] must have the concession open commencing no later than May 1st . . .”; and

WHEREAS, pursuant to paragraph 8 of the Lease Agreement, the City is required to provide quiet enjoyment of the Center to the Lessees “[w]ithout hindrance, eviction, or molestation . . .”; and

WHEREAS, pursuant to paragraph 4 of the Lease Agreement, the City receives from the Lessees as a portion of the rental fees for the Center “[f]ifteen percent (15%) of all gross revenues in excess of Twenty Thousand Dollars (\$20,000.00)”; and

WHEREAS, Dinosaur Park is a heavily visited tourist destination in the City of Rapid City, so that a delayed opening of the Center would potentially reduce the Center’s revenue, and therefore the rents payable to the City; and

WHEREAS, utilizing bid law to facilitate repairing the Center would potentially delay the opening of the Center beyond May 1, 2012; and

WHEREAS, the City finds the impending May 1, 2012, opening date for the tourist season, together with the Lease Agreement requirements and potential revenue loss, all in concert generate urgent and compelling reasons to allow an emergency repair of the Center by utilizing the emergency procurement process provided in SDCL 5-18A-9.

NOW, THEREFORE, BE IT RESOLVED, by the City of Rapid City that there is hereby declared a state of emergency regarding the damage caused by fire to the City-owned Dinosaur Park visitor center. This emergency shall be in effect from the date this resolution is approved until such time as the Center is deemed repaired and fit for use as evidenced by a City-issued

certificate of occupancy, or until such time as the Council acts to lift this declaration, whichever is shorter.

BE IT FURTHER RESOLED, by the City of Rapid City that in conformance with SDCL 5-18A-9, the Director of Parks and Recreation or his or her designee is hereby authorized to carry out the measures necessary to repair the Center in order to ensure it is fit for use, as evidenced by a City-issued certificate of occupancy, in time for a May 1, 2012, opening.

BE IT FURTHER RESOLVED, by the City of Rapid City that while all efforts will be made to ensure the Center is fit for use by May 1, 2012, the passage of this resolution creates neither a promise nor an expectation that the Center will be fully repaired and fit for opening to the public on or by May 1, 2012.

BE IT FURTHER RESOLVED, by the City of Rapid City that this resolution is necessary for the immediate preservation of the public peace, health, safety, and support of the municipal government and its existing public institutions, and this resolution takes effect immediately upon execution.

DATED this _____ day of January, 2012.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)