

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., September 7, 2004, pursuant to adjournment on August 31, 2004. Commissioners present were: Zweep, Twedt, Hajek, Kolbe, and Pekas. Also present were Sandy Kinder, Deputy Auditor, and David Nelson, State's Attorney.

Chairman Zweep called the meeting to order.

#### MINUTES

MOTION by Pekas, seconded by Kolbe to approve the Minutes for August 31, 2004. 5 ayes.

#### VOUCHERS TO BE PAID

MOTION by Hajek, seconded by Pekas to approve the following bills for payment. 5 ayes.

A & B Business Equip	Var. Depts	741.80	Ahrendt, Brian T	Court Sys.	1,260.00
American Public Huma	Human Svcs	110.00	Anacon Leasing, Inc.	Var. Depts	651.00
Anderson, Elwood	Human Svcs	350.00	Argus Leader	Var. Depts	460.22
Assembled Products C	Emer Mgmt	311.36	Atherton, David	Metro-911	64.76
Avera Home Medical E	Human Svcs	94.49	Avera McKennan	Human Svcs	569.56
Avera McKennan Hospi	Var. Depts	8,975.09	Avera McKennan Hospi	Pub. D.	36.73
B & E Apts / Holland	Human Svcs	300.00	Best Business Produc	Juv Det Cn	305.62
Best Western Ramkota	Elec Audit	74.00	Bethesda Christian C	Court Sys.	750.00
Brandhagen, Douglas	Human Svcs	175.00	Brown & Saenger	Var. Depts	296.47
Builders Supply Comp	Juv Det Cn	18.37	Byre, Elton W	Human Svcs	405.00
Cadwell, Sanford, Deib	Court Sys.	2,196.00	Campbell Supply Co.,	Var. Depts	354.63
Canfield Business In	Reg Deeds	50.00	CDW Government, Inc.	Metro-911	8,880.00
Cellular One	Var. Depts	2,439.52	Cellular One-Store	Emer Mgmt	128.25
Century Business Lea	Var. Depts	182.93	Chemco, Inc.	Var. Depts	2,175.41
Christensen, Larry	Planning	100.00	City of Colton	Human Svcs	53.89
Cleveland Heights Ap	Human Svcs	250.00	Communicare, LLC	Court Sys.	5,612.50
Communication Servic	Var. Depts	260.00	Dakota Fluid Power,	Hiway Cons	1,434.70
Dakota Lettering, In	Museum	912.50	Dee Bee Management-L	Human Svcs	450.00
Dialnet / Ahrens Tel	Var. Depts	100.41	Edgecomb, Susan	Court Sys.	50.00
Engbrecht, Roger	Human Svcs	121.00	Engels, Amy	Cnty Exten	139.49
Evercom	Correction	10,500.00	Fastenal Company	Museum	10.15
First Premier Bank	Sheriff	68.85	Franklin Covey Co.	Metro-911	75.43
Fred the Fixer, Inc	Var. Depts	129.90	Galland Legal Clinic	Court Sys.	978.40
Genzlinger, Janeen	Court Sys.	887.80	Global Protection, L	Emer Mgmt	49,789.17
Goebel Printing, Inc	Metro-911	78.14	Golden Creek Investo	Human Svcs	350.00
Gourley Properties I	Human Svcs	380.00	Graham Tire Co. - Do	Correction	18.55
Graybar Electric Com	Metro-911	26.52	Great America Leasin	Cnty Exten	220.30
Gunner, Andrea	Court Sys.	87.40	Guzman, Sandra V	Var. Depts	287.50
Handy Man, Inc.	Facilities	10.98	Hanson, Michael W.	Court Sys.	1,956.00
Harold's Photo Cente	Var. Depts	64.74	Heartland Paper Comp	Correction	119.27
Heartstarters LLC	Juv Det Cn	215.00	Heritage Place Apts	Human Svcs	450.00
Hoekstra, Denise A	Court Sys.	125.80	Hofer, Julie A	Court Sys.	3,706.50
Hollinger Corporatio	Museum Sto	127.44	Hurtgen, Timothy T	Human Svcs	250.00
Hy-Vee Pharmacy #163	Human Svcs	92.98	Hy-Vee Pharmacy #163	Human Svcs	180.60
ICI Dulux Paint Cent	Museum	39.00	Interstate Office Pr	Var. Depts	2,058.21
J & K Properties / T	Human Svcs	525.00	J.C. Penney Company,	Juv Det Cn	24.99
Janitor's Closet, Lt	Facilities	652.00	Jefferson Partners,	Human Svcs	631.05
Keller, Thomas M	Court Sys.	955.24	Kennedy, Ryan	Human Svcs	350.00
Kilian Community Col	Auditor	207.00	King County Sheriff	St Atty	18.10
Kjelden Construction	Facilities	592.50	Kmart #7318	Human Svcs	11.00
Kmart Pharmacy #7318	Human Svcs	319.27	Kohl's Department St	Juv Det Cn	59.98
Krumrei, Gerald W.	Human Svcs	450.00	Larson, Jeff	Pub. D.	119.58
Lewis Drugs	Var. Depts	15,796.41	Lithia Automotive, I	Sheriff	40.31
Lithic Casting Lab	Museum	24.00	Lutheran Social Serv	Court Sys.	75.00
Malloy Electric Bear	Facilities	60.63	Mannie, Corey	Human Svcs	450.00

May & Johnson, P.C.	Court Sys.	2,404.04	Meyer, Robert D., MD	Human Svcs	491.49
Microfilm Imaging Sy	Reg Deeds	62.50	Mid-State Radio Repa	Dir. Eq.	140.00
Midamerican Energy C	Var. Depts	1,576.74	Midcontinent Communi	Cnty Exten	29.85
Midwestern Mechanica	Pettigrew	222.00	Miedema, Philip	Human Svcs	450.00
Miller Funeral Home,	Human Svcs	1,850.00	Miller, Steve	Court Sys.	2,126.00
Minnehaha Cnty Jail	Correction	100.00	Minnehaha Cnty Sheri	Sheriff	90.10
Monick Pipe & Supply	Correction	63.24	Moore Medical Corp.	Emer Mgmt	260.00
Moorseal, Inc.	Hiway Cons	198,015.86	Motorola, Inc.	Metro-911	305.00
Murray Construction,	Human Svcs	720.00	NACDL	Pub. Adv.	270.00
Nesson Law Office, P	Court Sys.	1,935.35	Nordstrom's Auto Rec	Correction	75.00
Nyberg's Ace Hardwar	Museum	20.23	Officemax Credit Pla	Var. Depts	60.63
Optometric Clinic	Human Svcs	194.44	Oregon Dept. Of Tran	St Atty	3.00
Pederson Brother Inv	Human Svcs	450.00	Pennington County Ja	Correction	2,687.03
Pheasantland Industr	Var. Depts	226.85	Plusco Printing & Co	Human Svcs	89.00
Pontiac Cadillac of	Var. Depts	208.08	Prairie Publications	Comm.	405.77
Pvi Industries, LLC	Juv Det Cn	155.31	Quality Inn	Human Svcs	364.95
R & L Supply, Ltd	Correction	3.03	Radio Shack Corporat	Facilities	14.67
Record Keepers, Inc.	Human Svcs	41.28	Restful Lodging, Inc	Human Svcs	400.00
Rohn Airport Adverti	Museum	222.00	Rural Metro Ambulanc	Coroner	400.00
Safelite Glass Corp.	Sheriff	150.57	Sancor Industries, L	Museum	129.00
Sand, Raymond & Gene	Hiway Cons	40,662.77	Scheels All Sports	Metro-911	21.00
Schoeneman Bros. Co.	Var. Depts	247.93	SD Continuing Legal	Var. Depts	1,000.00
SD Dept of Health	Pub. D.	10.00	SD Dept of Human Ser	Pub. D.	28.60
SD Dept of Revenue	Hiway Cons	26.00	SDN Technologies, LL	Metro-911	795.00
Servall Towel & Line	Var. Depts	75.57	SF City Finance	Library	153,550.00
SF Detoxification Ce	Sheriff	12,516.66	SF Rubber Stamp Work	Juv Det Cn	92.96
SF Two Way Radio Ser	Metro-911	1,130.00	Shopko Pharmacy #207	Human Svcs	458.69
Shopko Store #076	Juv Det Cn	42.97	Sioux Empire Fair As	Recreation	10,417.50
Sioux Falls Ford, In	Var. Depts	1,284.27	Sioux Falls Kitchen	Juv Det Cn	35.00
Sioux Falls Utilitie	Var. Depts	3,897.54	Sioux Valley Energy	Var. Depts	189.33
Sioux Valley Home Me	Human Svcs	15,880.67	Sioux Valley Telepho	Metro-911	520.95
Sioux Vocational Ser	Juv Det Cn	4,234.70	Solomon, Ghirmay	Court Sys.	75.00
Stanley, Corey G	Sheriff	143.36	Stronghold Counselin	Human Svcs	100.00
Sycamore Village Apt	Human Svcs	300.00	Terrace Hills Apts	Human Svcs	450.00
The Center for Activ	Recreation	3,000.00	Thorin, Deyanira T	Court Sys.	570.83
Tilden, James A	Human Svcs	400.00	Upholstery & More	Museum Mtc	411.25
US Marshals Service	Correction	2,344.00	Valley Springs Body	Sheriff	140.00
Valley West Apartmen	Human Svcs	200.00	Velvet Uniforms, Inc	Var. Depts	2,001.29
Voigt, Debra	Court Sys.	2,216.57	W.W. Grainger, Inc.	Facilities	53.28
Walgreens Pharmacy #	Human Svcs	117.56	Walgreens Pharmacy #	Human Svcs	206.57
Walgreens Pharmacy #	Human Svcs	506.16	Watkins, Jeff	Correction	147.20
West Group	Var. Depts	1,664.00	Westport Apts/Westpo	Human Svcs	450.00
Whitney, Dennis	Dir. Eq.	68.00	Xcel Energy, Inc.	Var. Depts	2,657.26
Zweep, James E	Comm.	9.28	5-Forty Partnership	Human Svcs	400.00

## REPORTS

The following reports were received and placed on file in the County Auditor's office: Minnehaha County Human Services Report and the Regional Juvenile Detention Center Monthly Statistical Report, both for August, 2004.

## PERSONNEL

MOTION by Twedt, seconded by Hajek to approve the following personnel changes. 5 ayes.

1. To approve a leave of absence without pay for Cynthia Nogelmeier, Correctional Officer II for the Sheriff's Office effective 8-19-04.

2. To accept the resignation of Ramon Garcia as Correctional Systems Operator for the Sheriff's Office effective 9-3-04.
3. To hire Jim Crevier as part-time Correctional Systems Operator (7/1) for the Sheriff's Office at \$12.036 per hour effective 9-11-04.
4. To promote Marci Gebers to Correctional Officer II (10/2) for the Sheriff's Office at \$15.079 per hour effective 9-11-04.
5. To hire Holly Irwin as temporary Election Worker for the Auditor's Office at \$8.50 per hour effective 9-7-04 through 11-05-04.
6. To hire Timothy Rust as Communications Operator (9/3) for Metro Communications at \$14.794 per hour effective 9-13-04.
7. To hire Eric Trygstad as Museum Aide for the Museum at \$8.00 per hour effective 9-25-04.

Step increases due:

1. Heidi Gravett – Juvenile Correctional Officer I – JDC – 10/2 to 10/3, 9-8-04 – \$15.683 per hour
2. Orlando Nelson and Victoria Fay – Correctional Officer II – Jail – 10/2 to 10/3, 9-17-04 – \$15.683 per hour
3. Mary Buddi – Senior Office Assistant – Museum – 7/4 to 7/5, 9-23-04 – \$13.543 per hour
4. Aimee Chase – Communications Operator – Metro – 9/2 to 9/3, 9-24-04 – \$14.794 per hour
5. Deborah Berreth – Assistant Director Communications – Metro – 17/9 to 17/10, 9-24-04 – \$2012.80 biweekly
6. Cheryl Nelsen – Records Technician – Register of Deeds – 7/11 to 7/12, 9-25-04 – \$15.556 per hour

NOTICES

Notice of Public Hearing/Open House was received from the South Dakota Department of Transportation for September 21, 2004 at 5:00 p.m., at the Oaks Hotel & Convention Center, for the SD Highway 42 Curve Realignment, Resurfacing, Lighting, and Signal Project located within the city of Sioux Falls.

LIENS

Commissioner Pekas briefed the Commission on a lien compromise request from DPNO 43235. The lien, in the amount of \$2,850, was for medical services. The lienee received the services while in college and has since moved to another county. The lienee had been making regular payments until other debts became a greater priority. MOTION by Pekas, seconded by Twedt, to approve Resolution MC04-45. 5 ayes.

RESOLUTION MC04-45

WHEREAS, a County Aid Lien in the amount of \$2,850.00 purports to exist in favor of Minnehaha

County and against DPNO 43235 as Lienee, and

WHEREAS, said lienee has filed an application with the County Auditor stating such facts as provided for by Law,

NOW, THEREFORE, BE IT RESOLVED that after due consideration of the circumstances the Board of County Commissioners finds it advisable and proper to authorize the Chairman of the County Board and the County Auditor to execute the following:

A compromise and release of the lien in full upon payment of \$500.00

If payment is not made within one year from approval, this agreement is null and void.

Dated at Sioux Falls, South Dakota, this 7th day of September, 2004.

APPROVED BY THE COMMISSION:  
James Zweep, Chairman

ATTEST:  
Sandy Kinder, Deputy Auditor

Commissioner Pekas also briefed the Commission on a compromise request from DPNO 41967. The lien was noted against the petitioner's property for attorney services provided to his ex-wife's minor child after their divorce. The petitioner was in the process of selling his property when the title company noted the lien. MOTION by Pekas, seconded by Kolbe to approve Resolution MC04-46. 5 ayes.

RESOLUTION MC04-46

WHEREAS, a County Aid Lien in the amount of \$390.50 purports to exist in favor of Minnehaha County and against DPNO 41967 as Lienee (ex-husband, petitioner), and

WHEREAS, said lienee has filed an application with the County Auditor stating such facts as provided for by Law,

NOW, THEREFORE, BE IT RESOLVED that after due consideration of the circumstances the Board of County Commissioners finds it advisable and proper to authorize the Chairman of the County Board and the County Auditor to execute the following:

Release the lien only in so far as the real property with no payment from the petitioner.

Legal Description of real property: N 100' W 150' Block 18 Tom Berry's Addn to South Sioux Falls

Dated at Sioux Falls, South Dakota, this 7th day of September, 2004.

APPROVED BY THE COMMISSION:  
James Zweep, Chairman

ATTEST:  
Sandy Kinder, Deputy Auditor

LEASE

Bill Hoskins, Museum Director, requested that the Commission authorize the Chairman to sign a lease renewal agreement between Minnehaha County and the Minnehaha County Historical Society for space in the Old Courthouse Museum. Mr. Hoskins explained that the lease is for approximately 600 square feet of office space rent free. The agreement will be valid through December 31, 2004. MOTION by Hajek, seconded by Pekas to authorize the Chairman to sign the Lease Agreement. 5 ayes.

#### HEARING

Phil Kappen, Assistant Planning Director, was present for the scheduled hearing to consider an appeal of the Minnehaha County Planning Commission decision to revoke all conditional use permits issued to C & W Enterprises on property legally described as Tr. 4 Dawson's Addition & Lot 4 Haug's Addition SE1/4 in Section 12-T102N-R50W. This decision was to be effective August 31, 2004, and the property vacated no later than September 30, 2004. Mr. Kappen reported that there have been ongoing zoning violations at the property and detailed the site's history for the past four years. The appeal hearing date was extended until after August 31<sup>st</sup> to allow the petitioner time to complete the conditions required by the permit. Mr. Kappen stated that he has checked the property as of the deadline and some work had begun. David Kroon, Attorney, was present on behalf of the petitioner and described the petitioner's plan of action to correct the violations. He stated that the petitioner has made a substantial financial commitment to bringing the property into compliance and that due to scheduling conflicts, he has not had enough time to complete the required work. Mr. Kroon questioned the appeal procedure as it is written in the 1990 Revised Zoning Ordinance for Minnehaha County, and felt his client was in compliance with 8 of the 9 conditions that were set. MOTION by Twedt, seconded by Kolbe to uphold the Planning Commission decision to revoke all conditional use permits issued to C & W Enterprises and to approve Resolution MC04-47. 5 ayes.

#### RESOLUTION MC04-47

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Minnehaha County that an appeal was heard on a decision of the Minnehaha County Planning Commission pertaining to conditional use permits for a contractor's storage yard on property legally described as Tr. 4 Dawson's Addition & Lot 4 Haug's Addition SE1/4 in Section 12-T102N-R50W. The Planning Commission decided on July 26, 2004 that all conditions of conditional use permits #00-23, # 01-01, #01-29, and #03-46 shall be satisfied by August 30, 2004 or said permits shall be revoked on August 31, 2004 and the property vacated no later than September 30, 2004. The Board hereby upholds the Planning Commission decision.

Approved this 7th day of September, 2004.

MINNEHAHA COUNTY

James Zweep, Chair, Board of County Commissioners

ATTEST:

Sandy Kinder, Deputy Auditor

#### BUDGET

The Commission held the scheduled public hearing on the 2005 County budget. Sue Roust, Auditor, noted several changes to the budget since the Provisional Budget adoption. There was no one else present who wished to speak. The final adoption of the 2005 County Budget will take place on September 28, 2004.

## CHARTER

Ken McFarland, Administrative Assistant, requested that the Commission set an effective date for the proposed Minnehaha County Home Rule Charter if adopted at the November 2nd election. MOTION by Twedt, seconded by Hajek to incorporate an effective date of January 1, 2005 into the Minnehaha County Home Rule Charter document. 5 ayes.

## BOND REFINANCING

Sue Roust, County Auditor, briefly explained a resolution before the Commission that will authorize the refinancing the County's 2000 - 2001 bonds at a lower interest rate, reducing the annual debt service and outstanding bond total. On March 30, 2004, the Commission deferred discussion on this issue indefinitely. At that time, Ray Woodsend, Senior Vice President of Dougherty & Company, reported that the Commission should consider taking the needed steps to pursue refinancing in the future if market changes make it financially feasible. Mr. Dougherty was present at today's meeting to report that markets are favorable for the refinancing and answered questions regarding the proposed resolution. MOTION by Pekas, seconded by Twedt to approve Resolution MC04-48. 5 ayes.

## RESOLUTION MC 04-48

### RESOLUTION RELATING TO LEASE-PURCHASE OF VARIOUS COUNTY FACILITIES TO REFUND OUTSTANDING CERTIFICATES OF PARTICIPATION; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE-PURCHASE AGREEMENT AND APPROVING AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

BE IT RESOLVED by the Board of Commissioners of Minnehaha County, South Dakota (the "County"), as follows:

#### Section 1. Recitals.

1.01. The County is authorized by South Dakota Codified Laws, Chapter 7-25, inclusive, as amended (the "Act"), to enter into lease-purchase agreements for acquisition of real or personal property that the governing body considers necessary or appropriate to carry out its governmental and proprietary functions. The governing body finds that it is necessary and appropriate to issue Certificates of Participation (Limited Tax General Obligation), Series 2004 in one or more series to refund all or a portion of the Certificates of Participation (Limited Tax Obligation) Series 2000 (the "2000 Certificates") and the Certificates of Participation (Limited Tax Obligation) Series 2001 (the "2001 Certificates") which were issued to pay all or a portion of the costs of acquisition, construction, furnishing and equipping of a jail.

1.02. The County has agreed with U.S. Bank National Association, formerly First Bank of South Dakota National Association (the "Trustee") that the Trustee has, pursuant to a Ground Lease Agreement dated as of September 1, 1992 between the County and the Trustee (the "Ground Lease"), acquired certain interests in real property (the "Land") from the County, and the Trustee has leased its interest in the Land and has leased and agreed to sell the Facilities to be acquired, renovated, constructed and equipped thereon to the County pursuant to a Lease-Purchase Agreement, dated as of September 1, 1992 (the "Original Lease"), as amended and supplemented by the First Amendment to Lease-Purchase Agreement, dated as of November 1, 1994 (the "First Amendment to Lease"), the Second Amendment to Lease-Purchase Agreement, dated as of April 1, 1997 (the "Second Amendment to Lease"), the Third

Amendment to Lease-Purchase Agreement, dated as of April 1, 1999 (the "Third Amendment to Lease") and the Fourth Amendment to Lease-Purchase Agreement, dated as of December 1, 2000 (the "Fourth Amendment to Lease"), between the Trustee and the County (the Original Lease as amended and supplemented by the First Amendment to Lease, the Second Amendment to Lease, the Third Amendment to Lease and the Fourth Amendment to Lease is referred to herein as the "Lease").

1.03. The Trustee will execute and deliver a Fifth Supplemental Declaration of Trust (the "Fifth Supplemental Trust"), which will supplement and amend the Declaration of Trust, dated September 1, 1992 (the "Original Trust"), as amended by the First Supplemental Declaration of Trust, dated November 1, 1994 (the "First Supplemental Trust"), the Second Supplemental Declaration of Trust, dated as of April 1, 1997 (the "Second Supplemental Trust"), the Third Supplemental Declaration of Trust, dated as of April 1, 1999 and the Fourth Supplemental Declaration of Trust, dated as of December 1, 2000 (the Original Trust as amended and supplemented by the First Supplemental Trust, the Second Supplemental Trust, the Third Supplemental Trust, the Fourth Supplemental Trust and the Fifth Supplemental Trust are referred to herein as the "Trust Agreement"), pursuant to which the Trustee will (i) issue Certificates of Participation, Series 2004 (the "2004 Certificates") in the lease payments to be made by the County under the Lease and (ii) receive, hold and invest the proceeds of the sale of the 2004 Certificates and disburse such proceeds to refund all or a portion of the 2000 Certificates and 2001 Certificates.

1.04. The 2004 Certificates will be purchased by Dougherty & Company LLC and Piper Jaffray & Co. (collectively, the "Original Purchasers") pursuant to a Certificate Purchase Agreement between the County and the Original Purchasers (the "Certificate Purchase Agreement") and the Original Purchasers will offer the 2004 Certificates for sale to the public by an Official Statement (the "Official Statement").

1.05. Forms of the following documents relating to the Facilities (the "Documents") are directed to be prepared by Lindquist & Vennum P.L.L.P. as Bond Counsel, and submitted to the County and are hereby directed to be filed with and approved by the County Auditor and the Deputy State's Attorney: (a) the Fifth Amendment to Lease; (b) the Fifth Supplemental Trust; (c) the Certificate Purchase Agreement; and (d) the Official Statement.

Section 2. Authorization and Approval of the Documents. The financing described above is found to be favorable and is hereby approved. The Chairman and County Auditor are authorized to approve the principal amount of the Fifth Amendment to Lease, the 2004 Certificates, not exceeding \$15,000,000, the term thereof not exceeding 20 years, the interest rate or rates thereon not exceeding an average rate of 5% per annum and the price, not less than 98.0% of par and at which the 2004 Certificates are to be sold to the Original Purchasers, and are directed to enter into a Certificate Purchase Agreement with the Original Purchasers and their execution of the Certificate Purchase Agreement shall be conclusive evidence of their approval of the principal amount, purchase price, interest rates and other terms set forth therein. The forms of Documents to be prepared are hereby approved if the County Auditor deems them appropriate and the Documents are approved by the Deputy State's Attorney. The Chairman and the County Auditor are directed to execute the Fifth Amendment to Lease and the Fifth Supplemental Trust if approved by the County Auditor. Copies of all Documents shall be delivered, filed and recorded as provided therein. The Chairman and the County Auditor and the Deputy State's Attorney are also authorized and directed to execute such other instruments as may be required to give effect to the transactions therein contemplated. The County will cooperate in the issuance of the 2004 Certificates and the Chairman, the County Auditor and the Deputy State's Attorney shall execute such other instruments as are necessary to the issuance of the 2004 Certificates.

Section 3. Modification, Absence of Officers. The approval hereby given to the Documents includes an approval of such additional details therein as may be necessary and appropriate and such modifications thereto, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the Deputy State's Attorney prior to the execution of the Documents. The execution of any instrument by

the appropriate officer or officers of the County herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof. In the absence of the Chairman or the County Auditor, any of the Documents authorized by this resolution to be executed may be executed by such officer as, in the opinion of the Deputy State's Attorney, may execute documents in their stead.

Section 4. Payment of Lease Payments. The County will pay to the Trustee promptly when due, all of the Lease Payments (as defined in the Lease) and other amounts required by the Lease. To provide moneys to make such payments, the County will include in its annual budget, for each fiscal year during the term of the Lease, moneys sufficient to pay and for the purpose of paying all Lease Payments and other amounts payable under the Lease, and will take all other actions necessary to provide moneys for the payment of the obligations of the County under the Lease from sources of the County lawfully available for this purpose, including the levy of such taxes as may be necessary therefor, subject only to the limitations on such levies imposed by South Dakota law.

The County agrees and covenants to include in its annual budget for each fiscal year during the term of the Lease moneys sufficient to pay and for the purpose of paying the Lease Payments, and to levy a tax pursuant to (1) SDCL Section 7-25-1 and (2) SDCL Section 10-13-36 the amount authorized by the resolution adopted by the County on July 11, 2000 (\$1,150,000 for the calendar year 2000 taxes payable in the calendar year 2001) an amount sufficient and for the purpose of paying such Lease Payments and, to the extent permitted by law, to determine the percentage of true and full value to be used as taxable valuation such that the tax levied pursuant to (1) SDCL Section 7-25-1 and (2) SDCL Section 10-13-36 will generate sufficient revenues for the purpose of paying such Lease Payments, and to take all other actions necessary to provide moneys for the payment of the Lease Payments under the Lease, from sources of the County lawfully available for such purpose.

Section 5. Tax Matters. The County covenants and agrees with the Trustee and the registered owners from time to time of the 2004 Certificates that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the 2004 Certificates to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the 2004 Certificates will not become subject to taxation under the Code and the Regulations. The County will cause to be filed with the Secretary of the Treasury an information reporting statement in the form and at the time prescribed by the Code. The County will comply with the provisions of Section 148(f) of the Code, relating to the rebate of arbitrage profits to the United States, if and to the extent that such provisions are applicable to the Lease, the 2004 Certificates.

Section 6. Arbitrage Certification. The Chairman and the County Auditor, being the officers of the County charged with the responsibility for issuing the 2004 Certificates pursuant to this Resolution, are authorized and directed to execute and deliver to the Trustee a certificate in accordance with the provisions of Section 148 of the Code and Sections 1.148-1 et al of the Regulations, stating the facts, estimates and circumstances in existence on the date of issue and delivery of the 2004 Certificates which make it reasonable to expect that the proceeds of the 2004 Certificates will not be used in a manner that would cause the Lease or the 2004 Certificates to be arbitrage bonds within the meaning of the Code and Regulations.

Section 7. Official Statement. The County will participate in the preparation of the Preliminary Official Statement and the final Official Statement relating to the 2004 Certificates and hereby authorizes the County Auditor to consent to the distribution of the Official Statement by the Original Purchasers in connection with the sale of the 2004 Certificates. The Preliminary Official Statement, except for Permitted Omissions, will be deemed final by the County when authorized by the County Auditor as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934. As used herein, "Permitted Omissions" shall mean the offering price(s), interest

rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, rating, if any, and other terms of the 2004 Certificates depending on such matters.

Section 8. Amendment. This resolution may be amended from time to time, prior to the issuance of the 2004 Certificates, by an administrative resolution adopted by this Board.

Section 9. Emergency. The County Commission finds that this action is necessary for the support of the county government and its existing public institutions. Accordingly, pursuant to SDCL 7-18A-8, this resolution is effective immediately upon adoption.

Adopted this 7<sup>th</sup> day of September, 2004.

By: James Zweep, Its Chairman

ATTEST:

By: Sue Roust, Its County Auditor

#### SURPLUS

MOTION by Twedt, seconded by Hajek to donate one 1997 Dodge pickup, VIN 1B7HM16Y9MS297905, previously declared surplus for sale, to the City of Sioux Falls Street Department. 5 ayes.

MOTION by Hajek, seconded by Pekas to declare one 1995 Ford pickup VIN 1FTEX14H3SKB94358 as surplus for disposal at the September 11<sup>th</sup> surplus auction. 5 ayes.

MOTION by Pekas, seconded by Kolbe to adjourn into Executive Session. 5 ayes. Following Executive Session, the Commission adjourned until 5:00 p.m. on Monday, September 13, 2004.

APPROVED BY THE COMMISSION:

James Zweep, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor