

AGREEMENT  
BETWEEN  
THE DEADWOOD HISTORIC PRESERVATION COMMISSION,  
THE CITY OF DEADWOOD,  
THE SOUTH DAKOTA STATE HISTORICAL SOCIETY BOARD OF TRUSTEES, AND  
THE STATE HISTORIC PRESERVATION OFFICE

This Agreement is made and entered into on this 1st day of February 2022, by and between the City of Deadwood and the Deadwood Historic Preservation Commission, hereinafter referred to as “DEADWOOD”, and the South Dakota State Historical Society Board of Trustees and the State Historic Preservation Office, hereinafter referred to as “STATE”.

The parties to this Agreement acknowledge that in order to provide for the preservation and protection of Deadwood’s historic resources, a close working relationship between DEADWOOD and the STATE is necessary. This agreement will serve to allow for careful consideration of projects that could affect the characteristics that make the City of Deadwood significant as a National Historic Landmark while also allowing the city to change and grow as a living community.

NOW THEREFORE, the parties agree as follows:

1. DEADWOOD shall provide annually to the STATE, funding to be used for the purpose of providing a staff person to work with DEADWOOD and the city’s historic preservation needs.
2. It is the intention of the parties that DEADWOOD shall make transfers to the STATE for the purposes stated in this Agreement for each year of the agreement as follows:
  - a. \$70,000 for the state fiscal year beginning July 1, 2022 and ending on June 30, 2023
  - b. \$70,000 for the state fiscal year beginning July 1, 2023 and ending on June 30, 2024
  - c. \$70,000 for the state fiscal year beginning July 1, 2024 and ending on June 30, 2025
  - d. \$70,000 for the state fiscal year beginning July 1, 2025 and ending on June 30, 2026
3. DEADWOOD will provide the STATE an opportunity to investigate and comment on any project, which may encroach upon, damage or destroy historic resources and properties in the City of Deadwood pursuant to SDCL Chapter 1-19A. Deadwood will initiate consultation with the STATE upon receiving information regarding any project and will initiate consultation in concert with the preparation of staff reports.
4. The STATE hereby agrees that the following Projects, except as specified in Section 5 of this Agreement, will not encroach upon, damage or destroy Historic Properties, and that DEADWOOD is not required to submit the following Projects to the STATE for review under SDCL 1-19A-11.1:

- a. The issuance of building permits for interior construction within residential Historic Properties, except as provided in Section 5(f) of this Agreement, and provided that, and subject to the requirement that, DEADWOOD makes the Standards, as defined in Section 10 of this agreement, available to the property owners.
- b. The issuance of building permits for construction on Historic Properties, except as provided in Section 5(f) of this Agreement, and only when (i) DEADWOOD has issued a finding, based on the Standards, as defined in Section 10 of this agreement, that the Project will not encroach upon, damage or destroy Historic Property, and (ii) the STATE has concurred with the Commission's finding. DEADWOOD shall notify the STATE of its finding by e-mail, facsimile transmission, courier, or U.S. mail. The STATE must notify DEADWOOD of its objection to the finding within three days after receipt of the finding. The STATE's notification of objection may be served on DEADWOOD by telephone (with a follow-up written notification), e-mail, facsimile transmission, courier, or U.S. mail. Failure of the STATE to respond within three days after its receipt of the finding will mean that the finding will stand. If the STATE timely objects to the finding, the Project must be submitted to the Office for review under SDCL 1-19A-11.1 as outlined in sections 6 through 9.
- c. The installation, replacement, and repair of, and performance of routine maintenance on, traffic control devices (excluding support buildings necessary for operation of those devices), including but not limited to, stop signs, yield signs, and traffic signals, provided that, and subject to the requirement that, such installation and replacement is required according to the Manual on Uniform Traffic Control Devices.
- d. Routine maintenance or repair of underground utilities, both public and private, within public rights-of-way. The Parties agree that this exemption does not apply to infrequent, large-scale reconstruction projects that are not part of the City's normal maintenance and repair program.
- e. Routine maintenance or repair of above-ground utilities, both public and private, such as curb, gutter, storm sewer and other similar projects, and excluding streetlights and roadways, within public rights-of-way. The Parties agree that this exemption does not apply to infrequent, large-scale reconstruction projects that are not part of the City's normal maintenance and repair program.
- f. Routine maintenance, repair, and re-paving of roadways. The Parties agree that this exemption does not apply to reconstruction of roadways.
- g. Maintenance or repair of city resources that does not result in a loss of historical integrity of the resource, such as the loss of historic features, artifacts, structural support, historical setting, and other elements which qualified the resource, or property in the environs of the resource, as Historic Property. "Maintenance or repair" includes washing, waxing, repainting, replacement of exhausted elements of utilities such as light bulbs, care of lawns and other greenery, and other activities that do not remove, abrade, alter or destroy the resource or its physical elements.

- h. The operation and maintenance of city parks provided that projects meet the provisions of Section 4(g) of this Agreement.
  - i. The construction or alteration of signs subject to review by the Deadwood Sign Commission.
  - j. Projects for the construction or repair of basement egress windows, not visible from any street, on Historic Properties.
  - k. Paving, maintenance and repair of existing alleys, sidewalks, driveways, and parking areas.
  - l. Foundation repair or reconstruction on Historic Properties, provided that, and subject to the restriction that, the above-ground portion of the foundation does not exceed two feet in height at any point.
  - m. Repair of any roof or roof structure on Historic Property, provided that, and subject to the restriction that, the repair will not change the external appearance of the structure or alter the roofline.
5. The Parties recognize and agree that the Projects listed below will potentially have Adverse Effects on Historic Properties, are not subject to Section 4 of this Agreement, and must be submitted to the Office for review under SDCL 1-19A-11.1, after DEADWOOD has reviewed and commented on the Projects.
- a. The issuance of demolition permits for Projects on Historic Properties.
  - b. The issuance of moving permits for Projects on Historic Properties.
  - c. The issuance of building permits for Projects proposing significant additions to Historic Properties. "Significant additions" are additions that are as large as, or larger than, the existing foot-print of the original building or structure, or that add one or more stories to the original building or structure.
  - d. The issuance of building permits for the construction of dormers and/or skylights, visible from the street, on Historic Properties.
  - e. The issuance of building permits that alter the roofline of Historic Properties.
  - f. The issuance of building permits for Projects on Historic Properties on which a Covenant is held by the STATE.
  - g. Projects for the demolition and/or moving of Non-Contributing Buildings.
6. For projects that are not exempt from review as defined in Section 4 of this agreement and that DEADWOOD has determined may encroach upon damage or destroy historic property, DEADWOOD shall submit a project notification to the STATE. Upon receipt of a project notification from DEADWOOD, the STATE will review the notification and comment within five (5) business days. If the STATE determines an extended period of

- time is needed to complete the review, the STATE will notify DEADWOOD in writing within the first two (2) business days of receipt of the project notification that the STATE'S response may take up to thirty (30) days from receipt of the notification as allowed by state law. Upon completion of the review, the STATE may initiate an investigation or may determine that no further review is required.
7. If the STATE initiates an investigation, the STATE will notify DEADWOOD in writing of the concerns and issues that need to be addressed through a Case Report as defined by ARSD 24:52. The STATE will provide direction as to the course of the investigation and the required elements of the Case Report. DEADWOOD will provide the STATE with requested additional information. The STATE will have twenty (20) business days from the date of receipt of information provided by DEADWOOD to review and comment.
  8. The STATE may request additional information and will have an additional twenty (20) business days from receipt of the requested information for review. Upon completion of the review, the STATE will provide an official determination on the project.
  9. If the STATE makes a final determination that the project will encroach upon damage or destroy historic property, DEADWOOD will make the final decision as to whether to allow the project to proceed. A project can proceed only after DEADWOOD has made a written determination, based upon the consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to the historic property, resulting from such use, and ten days' notice of the determination has been given, by certified mail, to the STATE. A complete record of factors considered shall be included with such notice.
  10. DEADWOOD and STATE will use the current *Deadwood, South Dakota: Comprehensive Historic Preservation Plan; Downtown Design Guidelines, Deadwood, South Dakota*; Applicable Deadwood City Ordinances and Building Codes; SDCL Chapter 1-19A; ARSD Article 24:52; and the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* in preparing and reviewing project reports and case reports.
  11. The STATE and DEADWOOD will work closely regarding matters of common interest and historic preservation within the City of Deadwood. The STATE agrees that STATE staff will travel to DEADWOOD regularly and upon request, subject to mutually agreeable schedules.
  12. DEADWOOD appoints its historic preservation officer as the liaison between DEADWOOD and the STATE for purposes of this Agreement and other historic preservation matters involving DEADWOOD and the STATE. The STATE appoints its historic preservation director as its liaison officer for such purposes.
  13. This Agreement contains the entire Agreement between the parties and is subject to and will be construed under the laws of the State of South Dakota and may be amended only in writing signed by both parties.
  14. The Agreement can be terminated upon thirty (30) days written notice by either party.
  15. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. This Agreement will be

terminated by the STATE if the Legislature fails to appropriate funds or grant expenditure authority. Termination for this reason is not a default by the STATE nor does it give rise to a claim against the STATE.

16. This Agreement will continue in full force and effect until June 30, 2026.

DEADWOOD HISTORIC PRESRVATION COMMISSION

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Dale Berg, Chairperson Date

CITY OF DEADWOOD

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David R. Ruth, Jr., Mayor Date

SOUTH DAKOTA STATE HISTORICAL SOCIETY BOARD OF TRUSTEES

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Sean J. Flynn, President Date

SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICE

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Ted M. Spencer, State Historic Preservation Officer Date