

***SUMMERSET CITY COMMISSION
REGULAR MEETING
SUMMERSET MUNICIPAL BUILDING
7055 LEISURE LANE
THURSDAY, JULY 7th, 2022 6:00 P.M.***

Commissioner Nasser called the Regular Meeting to order at 6:00 p.m. Commissioners Hirsch, Kitzmiller, Butler, and Nasser were present. The City Attorney and City Administrator was also present. Absent: Mayor Torno.

Commissioner Nasser led in the Pledge of Allegiance.

Commissioner Butler gave the invocation.

Motion by Hirsch, second by Butler, to approve the agenda for the regular meeting of the Summerset City Commission for July 7th, 2022 as presented or amended. Motion carried.

CONSENT CALENDAR

Motion by Butler, second by Kitzmiller, to approve the minutes of the regular meeting of June 16th, 2022. Motion carried.

Motion by Butler, second by Hirsch, to approve the minutes of the special meeting of June 16th, 2022. Motion carried.

Motion by Hirsch, second by Butler, to approve the minutes of the special meeting of June 28th, 2022. Motion carried.

APPROVAL OF CLAIMS

Motion by Kitzmiller, second by Butler, to approve the claims and hand checks in the amount of \$310,614.88 from June 16th, 2022 through July 6th, 2022. Motion carried.

APPROVAL OF PAYROLL – June 2022 – SDCL 6-1-10

Motion by Hirsch, second by Kitzmiller to approve the payroll for April 2022. Motion carried.

Dept. 4000 - \$17,736.68 Wastewater/Public Works

Dept. 4110 - \$2,333.32 Commission

Dept. 4120 - \$1,083.33 Mayor

Dept. 4140 - \$12,991.82 Finance

Dept. 4210 - \$27,729.12 Police

Dept. 4652 - \$300.00 Planning & Zoning

COMMISSIONER REPORTS-

Commissioners gave report on monthly activity.

SECOND READING FOR ORDINANCE 2022-07 AN AMENDMENT TO TITLE XV: LAND USE, CHAPTER 151: SUBDIVISIONS, 151.052 SUPPLEMENTAL INFORMATION - AN ORDINANCE SETTING GEOTECHNICAL REQUIREMENTS FOR DEVELOPERS.

Motion by Butler, second by Hirsch to approve second reading. Motion carried.

Motion by Hirsch, second by Butler to adopt Ordinance #2022-07. Motion carried.

RESOLUTION FOR COMMUNITY ACCESS GRANT SDDOT – SIOUXLAND ROAD

Motion by Kitzmiller, second by Hirsch to approve Resolution. Motion carried.

CITIZENS INPUT

None

UPCOMING EVENTS: None

ITEMS FROM CITY ATTORNEY

Executive Session per SDCL 1-25-2 for discussing legal, economic development, and personnel issues.
None

ADJOURNMENT

Motion by Hirsch, second by Kitzmiller to adjourn at 6:12pm. Motion carried.

(SEAL)

ATTEST:

Candace Sealey
Finance Officer

Melanie Torno
Mayor

Published once _____ at a cost of \$_____.

Check Register Report

Date: 07/19/2022

Time: 9:14 AM

Page: 1

City of Summerset

BANK BANKWEST

Check Number	Check Date	Status	Void/St op Date	Reconcil e Date	Vendor Number	Vendor Name	Check Description	Amount
BANKWEST Checks								
25662	07/19/22	Printed			0617	AQUA AEROBIC SYSTEMS	CLOTH SOCK WWTP	3,303.33
25663	07/19/22	Printed			0021	BLACK HAWK WATER USERS DISTRIC	MONTHLY USAGE	75.10
25664	07/19/22	Printed			1504	CBH CO-OP	GOVT FUEL	5,795.75
25665	07/19/22	Printed			0036	CITY OF RAPID CITY	SOLID WASTE DISPOSAL	5,829.77
25666	07/19/22	Printed			1093	DAKOTA PUMP, INC	REPAIR LIFT/ PLANT PLC	1,785.71
25667	07/19/22	Printed			0468	DELTA DENTAL	EMPLOYEE DENTAL INSURANCE	796.10
25668	07/19/22	Printed			0765	DEMERSSEMAN JENSEN	LEGAL SERVICES	1,895.00
25669	07/19/22	Printed			1452	FIRE PRO	FIRE EXT RECHARGE	99.50
25670	07/19/22	Printed			0246	GOLDEN WEST	COMP SERVICES	3,876.50
25671	07/19/22	Printed			1133	HDR ENGINEERING, INC	ENGINEERING FEES	49,703.88
25672	07/19/22	Printed			0124	KIEFFER SANITATION	TEMP PORTABLE TOILETS	300.00
25673	07/19/22	Printed			1656	LEGENDARY ELECTRIC	LIFT UPGRADE	832.91
25674	07/19/22	Printed			1101	MEADE COUNTY AUDITOR	DISPATCH JUNE 2022	2,068.39
25675	07/19/22	Printed			1433	MIDCONTINENT COMMUNICATIONS	WWTP TELEPHONE	201.64
25676	07/19/22	Printed			1157	MIDCONTINENT TESTING	TESTING	321.00
25677	07/19/22	Printed			0028	MONTANA DAKOTA UTILITIES	MONTHLY USAGE	272.62
25678	07/19/22	Printed			0008	RAPID CITY JOURNAL	PUBLICATIONS	298.15
25679	07/19/22	Printed			1291	RCS CONSTRUCTION INC	GREENHOUSE TEMP REPAIRS	3,536.43
25680	07/19/22	Printed			0018	SD ONE CALL	JUNE NOTIFICATIONS	56.70
25681	07/19/22	Printed			1583	SONTECH	INSTALLED PUSH BUMPER	640.00
					Total Checks:	20	Checks Total (excluding void checks):	81,688.48
					Total Payments:	20	Bank Total (excluding void checks):	81,688.48
BANKWEST EFT Checks								
109	07/19/22	Printed			0322	AFLAC REMITTANCE PROCESSING	JUNE PREMIUMS	249.34
110	07/19/22	Printed			1245	SOUTH DAKOTA STATE TREASURER	SALES TAX COLLECTED JUNE 2022	989.76
					Total Checks:	2	Checks Total (excluding void checks):	1,239.10
					Total Payments:	2	Bank Total (excluding void checks):	1,239.10
					Total Payments:	22	Grand Total (excluding void checks):	82,927.58

June

Sanitation

Hauled 177420 lbs of Solid waste, 5060 lbs of recycling, 7520 lbs of cardboard, and 77760 lbs of yard waste to the landfill. Serviced solid waste equipment. Delivered cans to new homeowners. Delivered and removed temporary containers to existing homeowners as requested. Prepared for City Wide Cleanup. City Wide cleanup was conducted and 20220 lbs of waste was collected. Repairs were made to the 2022 Roll Off (Tarp was replaced). 2020 Pete had repairs done to the packing cylinder actuator valve. Worked on permanent placement location for Sun Valley Roll Offs. Informed a nonresident of the city about the requirements required to use the yard waste site.

Public works

Final walkthrough was conducted with RCS and HDR on Constitution and Democracy. Final walkthrough was also completed with Simon and HDR on Mulberry and Freedom Street projects. Serviced Public Works equipment. a parking pad was built at the City Shop. Drainages were mowed. Worked on design of roll off containment area for the Summerset side. Repaired wiring on trailer. Contacted BHP about partial power outage at the City shop due to a lightning strike. Spent time with surveyor locating WWTP property pins. Conducted pre work for WWTP fence and WWTP/City Shop Road as time allowed. Fixed a couple of streetlights. Met With DOT. Attended a Department Head Meeting, and a city council Meeting. Received a revised quote for the Sturgis Road streetlight. Repaired walk through door at City Hall Garage. Mowed city property and sprayed weeds. Was notified of an inoperable siren. Had siren repaired and tested. And working on a more efficient notification process when they become inoperable

Code enforcement

Conducted training on Code enforcement duties. Spoke with homeowners about issues and sent notice of violation.

Parks

Prepared for Summerfest. Held Summerfest. Cleaned up after Summerfest. Met with Tallgrass on park project. Mowed parks and sprayed weeds. Applied for a mosquito mitigation grant. Awarded grant.

Miscellaneous

We assisted the Police Department with prepping for the Police Department BBQ. Worked with the Police department on illegal dumping statutes and enforcement requirements and responsibilities.

June 2022 Waste Water Department report

Daily Operations

6-8 Discussed Budget items with other department heads
6-10 Worked on getting annual budget list
6-11 Called out for failed level transducer @ Main Lift. Replaced level transducer.
6-17 Dakota pump unplugged pump #2 @ Main Lift Station.
6-21 Legendary Electric placed new controls for Summerset Lift Station.
6-25 Coffee with commissioner. No public interest.
Treated 4,194,000 gal of waste water. Average of 140,000 gal/day.

Special Projects

6-16 Had a meeting with Jim Gingrass to discuss purchase of land South of the treatment plant

Misc

JUNE 2022 CITY ADMINISTRATOR REPORT

ECONOMIC DEVELOPMENT

- GOED – will have a site that we can put property listings for economic development.

GRANTS

- Researched Live Well Grants for the Black Hills Region.
- Completed the SAM's Grant activation for PD and reset the MPIN #.
- Researched GF&P Trails Program for grant on public use.
- Met with A. Meyer to do updates on SAM's registration for grant purposes.
- Researched new funding opportunities from DOJ.

PLANNING & ZONING

- Visited with C. Hughes on 11 acre parcel and sewer timeline.
- Reviewed Task Order from HDR on Infinity.
- Researched Castlewood drainage for documents.
- Worked on timeline on Gollnick property for grading permit. Sent to attorney.
- Drafted/updated the septic permit.
- Application completed for Weidenbach septic and sent to Meade County for inspection.
- Reviewed the final paperwork on the Memory Care Center.
- Researched Sun Valley Master Plan to give to Public Works Department.
- Received telephone message from S. Rost regarding sewer timeline.
- Researched platting for potential dog park.
- Phone call regarding Lot 2 in Summerset USA for a possible roofing business and sewer timeline.
- Visited with P. Olsen regarding 7 acre lot and sewer timeline.
- Reviewed sign ordinance for a scoreboard being put up at the school.
- Visited with Longbranch Engineering regarding storage units in Summerset USA.
- Attended one (1) Planning and Zoning Meeting.
- Visited with L. Shagla from HDR on numerous items that needed follow-up by the City.
- Visited with Wesley from Longbranch Engineering about ROW, sewer easements and set-backs.
- Visited with L. Shagla regarding in-law quarter and living quarters within businesses.
- Discussion with T. Wiczorek on Gollnick property.

*See next page

MISC. CONT

- Processed voucher for refund on Run Wild – for denied license.
- Visited with Shane Delbridge regarding firewall for building.
- Sent malt-beverage applications off to the SD Dept. of Revenue for processing.
- Sent off work-comp claim on employee for their First Report of Injury form.
- Did election set up for the primary election in Commission Room.
- Sent off continuation of S. Triggs complaint to M. Wheeler and M. Torno for review.
- Completed 2021 Census Survey on payroll.
- Met with Department Heads to go over handbook and the start of budget FY 2023.
- Reviewed resolution on fees/discussion with Mayor.
- Put out notices for Summerfest.
- Set up meeting T. Morris to discuss rewriting TIF 2 and its parameters.
- Addressed a speeding, stop sign complaint – sent on to appropriate department.
- Set up special meeting June 16th for Finance and Law Enforcement executive session.
- Attended Summerfest on June 11th.
- Finished employee handbook draft.
- Drafted a disclaimer for handbook.
- Drafted an acknowledgement for handbook.
- Drafted a release of information.
- Visited with S. Phillips regarding Summerset City services.
- Followed up with insurance company on street light claim.
- Sent information off to SD Fusion Center for Cyber Security awareness on our domain. They are a division of Homeland Security.
- Attended a meeting with Gingras, T. Kayl, J. Ambrose, M. Torno regarding purchase of well and acreage.
- Emailed out discretionary formula and new law that went into affect.
- Contacted Auditor's Office regarding TIF increment that the City is receiving.
- Attended meeting with SD DOT, A. Kayl, L. Shagla and M. Torno.
- Sent signed School Resource Officer Agreement off to the school.
- Visited with M. Macrander about W-4 and IRS withholdings.
- Visited with C. Montileaux about W-4 and IRS withholdings.
- Attended one (1) Commission Meetings and two (2) special meetings.
- Attended Black Hills Council of Local Government meeting in-person.
- Attended zoom meeting with Matt from Tall Grass.
- Met with J. Steiner regarding splash pad concerns.
- Met with L. Debolt from Tyler Tech on confirmation of quote for software.
- Worked on safety manuals to coincide with handbook.
- Worked on Newsletter items.
- Addressed two (2) complaints on weeds and sent them to code enforcement.

June 2022 Summerset Police Department Report

Grants

We are currently operating under the COP's grant. This has been going well.

We are currently operating under the Federal Highway Safety grant. We are doing good under this grant.

Calls for Service

We answered 313 calls for service from June 1 to June 30, 2022.

Some examples of the calls we received.

Traffic Stops – 122

DUI Arrests – 10

Drug Arrest – 3

Assist Other agencies – 49

Dog Complaints – 5

Animals Lost and Found – 5

Injury Accidents – 2

Non- Injury – 5

Suicide Threats - 2

Burglar Alarm – 3

Ambulance – 12

Assist Person – 7

Disturbance – 4

Welfare Check – 8

Community Involvement

N/A

Public Safety

N/A

Misc.

N/A

Brandy Palmer
SR Patrol Officer/School Resource Officer
12929 Pony Express Drive
Piedmont, SD, 57769
7/8/2022



Don Allen
Chief of Police
Summerset Police Department
7055 Leisure Lane
Summerset, SD, 57718

Dear Chief Allen:

It is with regret that I resign from the Summerset Police Department, School Resource Officer and SR Patrol Officer position. I will officially resign my position when my home sells. I will be listing my home no later than the end of next week. We are aiming for the end of July or the first week of August as a move date. We have decided to try our luck in entrepreneurship in Coeburn, Virginia. I will keep you apprised of my last day when I have a better idea. My hope is to give enough notice so I can assist in training my replacement.

I am beyond grateful for the opportunities I have been given while employed within your Agency for the last five and a half years, and I offer my best and hope for the agency's continued success.

Sincerely,

Brandy Palmer

SR Patrol Officer/School Resource Officer

A handwritten signature in black ink that reads "Brandy Palmer". The signature is written in a cursive, flowing style.

Code Enforcement SOPsop's

- ~~1. Code enforcement will receive notice of violation, either via email, personal viewing, resident complaint. collect name, address, and phone number .~~
- ~~2. Code enforcement will inspect the property. If violation does exist, CE will photograph violation, Use door hanger to notify, or call proprty owner and/or resident, as well as ect. create new log in zercher suite if needed. The d{door hangers } will include the date of violation, ordinance number, an th-time correction per ordinance, which is typically -le- 10 days for grass and -15 for most everything else, unless specified in the ordinance.~~

~~3. If the violationproblem is corrected in a timely manner and, follows the ordinance guidelines, for remainder if growing seasonno further action is needed.~~

~~However, i3. If problemthe violation is not corrected, CE will photograph again, create letter from zeurcher template, and, in addition, issue a civil citation. The ceitation may be issued daily through the use of mail or delivered to the property.~~

~~until corrected. Either mail or deliver to property. notice to correct all other than grass goes from 15 days to 7 days to correct. grass remains at five days.~~

~~4. If the violation is not corrected by theAfter second deadline, passes if not corrected the code enforcement officer will cause thehave the authority to correct the violation. Foproblem to be corrected. for example, grass, a third party mowing/landscaping company, who is licensed and bonded within the city of Summerset, is contracted to correct -mow grass ordinance violations. company used must be licensed and bonded within the city. The city of Summerset will collect the contracted amount through a direct bill and/or assessment per city ordinance and state law.~~

~~_____ is billed. recuperated costs will be collected via bill or assessment per city ordinance/state law.~~

Penalties:

~~_____ First violation: \$100 a day- until corrected.~~

~~_____ Second violation: \$200 a day until corrected.~~

~~Third Violation: \$300 a day until corrected.~~

~~5. The city of Summerset reserves the right , at any time will have the ability to waive the administrative citations, all or in part, at their discretion.~~

~~Basically, I would like to be able to all or write a letter for the first offense, and issue a civil penalty when we have to go back. after the time lapses for the second offence deadline, take the steps to fix the problem. collect the fees and hopefully they will learn their lesson.~~

~~Also I believe that we need to revisit the certified letter section of the ordinances. Parts of the ordinances say courtesy letter/notice. and then other parts of it say Certified letter/in person with return of service. how do you do a return of service in person. at the same time, I am able to leave~~

~~citations on the property in a conspicuous place. you don't even have to leave them with a person. that makes no sense in my mind.~~

~~We will have to figure out the fine collection, as well as where those fines go and the collection process as out ordinances require.~~

SB 162 (which can be found at this link: <https://sdlegislature.gov/Session/Bill/22963/236187>) which made a change to the discretionary formula.

If a county or city wants a discretionary formula for Commercial Residential, Affordable Housing, or Residential within a Redevelopment Neighborhood, the following mandatory requirements are now in play:

- If a board passes a discretionary formula for any of those 3 types of properties, it is now a **7-year formula**.
 - **The County Commission or City Council cannot alter the length of the formula. If they pass it, it must be a 7 year term.**
- The following formula is the **mandatory maximum**:
 - 1st year – 25% assessable
 - 2nd year – 25% assessable
 - 3rd year – 50% assessable
 - 4th year – 50% assessable
 - 5th year – 75% assessable
 - 6th year – 75% assessable
 - 7th year – 100% assessable
 - **The County Commission or City Council cannot create a formula that would increase the percentage assessable in any given year.** The Commission/Council is permitted to reduce the percentage assessable if they so desire.
- Even if a county has already passed a resolution for one of the 7-year residential discretionary formulas, a city is allowed to pass its own formula that would overrule what the county passed. However, the city must be within the maximum requirements outlined above.
 - This is only applicable to the Commercial Residential, Affordable Housing, or Residential within a Redevelopment Neighborhood. For all other structure types, the county's discretionary formula trumps the city.

Any County or City wanting to take advantage of this change will have to pass a brand new resolution specifically addressing the formula for the 7-year term. (I have attached an example resolution.) If they do not, then the existing formula for residential property will no longer be valid. Please note: Any property that is currently on a discretionary formula will continue to receive that formula until the end of its 5-year term regardless if a new resolution is passed or not.

This information is applicable to you as a city, as you can adopt any or all of the 3 discretionary formulas listed, regardless of county action. If you choose to adopt any of these formulas, please send to the DOE Office a signed resolution so proper adjustments can be made when assessing. Any formula formally adopted by November 1 is what we will enact for the following year's assessments.

At present, Meade County has not adopted a discretionary formula for any of these 3 types of property. Although we are currently in the process of updating our Resolution to reflect current code, you can find the formulas presently adopted by the Meade County Commission here: [Meade County Discretionary Formula](#)

	ACTIVE 5 YEARS IN PROGRAM					
	1st year	2nd year	3rd year	4th year	5th year	
2022 COUNTY TOTALS:	2022	2021	2020	2019	2018	TOTALS
on assessment rolls for:	27/28	26/27	25/26	24/25	23/24	
Sturgis	7,288,104	650,962	2,690,752	1,466,261	2,869,063	14,965,142
Faith		140,561			0	140,561
Summerset	411,763	682,198	3,996,472	771,144	4,937,368	10,798,945
Piedmont	74,520					74,520
Box Elder	1,360,000		640,434	35,654	1,321,460	3,357,548
Outside City Limits	3,912,880	3,005,227	976,179	2,355,558	1,901,545	12,151,389
TOTALS:	13,047,267	4,478,948	8,303,837	4,628,617	11,029,436	41,488,105

HISTORICAL DATA							
2017	2016	2015	2014	2013	2012	2011	2010
22/23	21/22	20/21	19/20	18/19		Under old DF Formula 20/40/60/80	
3,035,223	7,706,924	2,760,555	5,717,625	1,002,630			
0	251,924	57,244	44,998	99627			
3,925,937	2,042,338	88,131	959,685	442,481			
	163,680		37,844				
3,158,259	2,628,246	1,158,502	1,244,315	951,842			
10,119,419	12,793,112	4,064,432	8,004,467	2,496,581	6,564,390	2,850,939	1,793,536

Meade County
RESOLUTION

WHEREAS, SDCL 10-6-35.2 authorizes the Board of County Commissioners, at its discretion, to adopt any formula for assessment of specifically classified structures;

WHEREAS, SDCL 10-6-35.4 permits the governing body of any municipality to adopt any or all property classifications defined in 10-6-35.2 which are not adopted by the Board of County Commissioners;

WHEREAS, SDCL 10-6-35.2 states the formula may include for any or all of the five tax years following construction all, any portion or none of the assessed valuation for tax purposes;

WHEREAS, the South Dakota Department of Revenue and Regulation's formula recognizes the local effort for school tax purposes to the extent of 20, 40, 60, 80, 100% for the 5 year period;

NOW, THEREFORE, BE IT RESOLVED, that the following properties shall be, and hereby are, specifically classified for the purpose of taxation pursuant to SDCL § 10-6-35.2:

Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more;

Any new nonresidential agricultural structure, or any addition to an existing structure, if the new structure or addition has a full and true value of ten thousand dollars or more;

Any new commercial structure, or any addition to an existing structure, except a commercial residential structure as described in subdivision (5), if the new structure or addition has a full and true value of thirty thousand dollars or more;

Any commercial, industrial, or nonresidential agricultural property which increases more than ten thousand dollars in full and true value as a result of reconstruction or renovation of the structure;


BE IT FURTHER RESOLVED, the assessed value to be used for tax purposes of any structure classified pursuant to this Resolution shall, following construction, be calculated as follows:

- 1st Year - 0% of increased value
- 2nd Year - 0% of increased value
- 3rd Year - 0% of increased value
- 4th Year - 0% of increased value
- 5th Year - 0% of increased value

BE IT FURTHER RESOLVED, the assessed value to be used for tax purposes of any qualifying lots referenced in SDCL 10-6-66 and 10-6-67 pursuant to this Resolution shall be calculated as follows:

- 1st Year - 0% of increased value
- 2nd Year - 0% of increased value
- 3rd Year - 50% of increased value
- 4th Year - 100% of increased value
- 5th Year - 100% of increased value

Dated this 28th day of July, 2020.

A handwritten signature in black ink, appearing to read "Ted Seaman", written over a horizontal line.

Ted Seaman
Chairman, Meade County Commission

Discretionary Formula

10-6-137. Discretionary formula for reduced taxation of new structures and additions--Partially constructed structures.

Any structure classified pursuant to this section, shall, following construction, be valued for taxation purposes in the usual manner. However, the board of county commissioners of the county where the structure is located, may adopt any formula for assessed value to be used for tax purposes. The formula may include for any or all of the five tax years following construction all, any portion or none of the assessed valuation for tax purposes. Any formula adopted shall be equally applied to specifically classified structures within a tax increment finance district. The board of county commissioners of the county where the structure is located may, if requested by the owner of the structure, not apply the discretionary formula and the full assessment shall be made without application of the formula. In waiving the formula for the structure of one owner, the board of county

			10-6-137 (5) Commercial Residential new structure or addition (\$30,000+)	10-6-137 (6) Affordable Housing new structure w/ monthly rental rates thresholds (4+ units)	10-6-137 (7) Redevelopment Neighborhood new structure, addition, or renovation (\$5,000+)
County	Scope	Year	Adopted Discretionary		
Aurora	County	2020	X	X	
Beadle	County	2020	X	X	
	Huron	2020			X
Bon Homme	County	2020	X		
Brookings	County	2020	X		
Brown	County	2020	X	X	
Brule	County	2020	X		
Butte	County	2020	X	X	
Clay	County	2020	X		
	Irene	2020	X		X
Codington	County	2020	X		
Custer	Custer	2020		X	
Davison	County	2020	X		
Day	County	2020	X		
Deuel	County	2020	X		
	Clear Lake	2020			X

Discretionary Formula

			10-6-137 (5) Commercial Residential new structure or addition (\$30,000+)	10-6-137 (6) Affordable Housing new structure w/ monthly rental rates thresholds (4+ units)	10-6-137 (7) Redevelopment Neighborhood new structure, addition, or renovation (\$5,000+)
County	Scope	Year	Adopted Discretionary		
Edmunds	County	2020	X		
Fall River	County	2021	X		
Grant	County	2020	X		
Gregory	Gregory	2017			X
Haakon	Philip	2021	X		X
Hamlin	County	2020	X		
	Bryant	2019			X
Hanson	County	2020	X	X	
Hughes	County	2020	X	X	
Hutchinson	County	2020	X		
Jackson	County	2020	X		
Lake	County	2020	X		
Lawrence Lincoln	Lead	2020	X	X	X
	Beresford	2020	X		
	Canton	2020	X		
	Harrisburg	2020	X	X	X
	Hudson	2020	X		
	Sioux Falls	2020	X		
	Tea	2021	X		
Lyman	County	1989	X	X	
Marshall	County	2020	X		

Discretionary Formula

			10-6-137 (5) Commercial Residential new structure or addition (\$30,000+)	10-6-137 (6) Affordable Housing new structure w/ monthly rental rates thresholds (4+ units)	10-6-137 (7) Redevelopment Neighborhood new structure, addition, or renovation (\$5,000+)
County	Scope	Year	Adopted Discretionary		
McPherson	County	2020	X		
Meade Minnehaha	Sturgis	2020	X		
	Baltic	2020	X		
	Colton	2020	X		
	Crooks	2020	X		
	Dell Rapids	2020	X		
	Garretson	2020			X
		2020	X		
	Hartford	2020	X		
	Humboldt	2020	X	X	X
	Sioux Falls	2020	X		
Moody	Flandreau	2020	X		X
Pennington	County	2020		X	
Perkins	County	2020	X		
Potter	County	2020	X	X	
Sanborn	County	2020			X
Spink	Ashton	2020	X		X
	Doland				X
	Frankfort		X		X
	Mellette				X
	Redfield	2020	X		X

Discretionary Formula

			10-6-137 (5) Commercial Residential new structure or addition (\$30,000+)	10-6-137 (6) Affordable Housing new structure w/ monthly rental rates thresholds (4+ units)	10-6-137 (7) Redevelopment Neighborhood new structure, addition, or renovation (\$5,000+)
County	Scope	Year	Adopted Discretionary		
	Tulare		X		
Stanley	Fort Pierre	2020	X	X	
Tripp	County	2020	X		
Turner	County	2020	X	X	
	Centerville	2018	X		X
	Irene	2020	X		X
	Marion	2020	X		X
Union	Beresford	2020	X		
	Elk Point	2020	X		
	Jefferson	2020	X		
	North Sioux City	2020	X	X	X
Yankton	County	2020	X		
	Irene	2020	X		X

SDCL References

13-13-20.4 State Aid Formula
 10-6-138 Municipal Adoption
 "within 3 miles"
 *notes in Codified Law book states "County trumps City"



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

FILE COPY

May 9, 2022

Re: City of Summerset, 2022G-ARP-200
Wastewater Treatment Plant Expansion

Melanie Torno, Mayor
City of Summerset
7055 Leisure Lane
Summerset, SD 57718



Dear Mayor Torno:

I would like to congratulate the city of Summerset for obtaining an American Rescue Plan Act grant for the Wastewater Treatment Plant Expansion project. The grant is for \$3,596,279 of eligible costs.

Enclosed is the grant agreement for your project. Please have the authorized signatory sign and date the agreement, make a copy for your files, and **return the original to our office**. Also enclosed is a Payment Provisions Checklist related to the grant agreement. You cannot draw grant funds until the items listed on the checklist are submitted.

Please take note of the audit requirements outlined in item #7 of the grant agreement. Notification of total federal fund expenditures for this grant will be sent annually. It is your responsibility as a subrecipient to determine if the total federal fund expenditure amount requires a federal Single Audit and submit necessary information accordingly.

In addition, the enclosed W-9 form must be fully completed, signed, and return the original to this department.

Ensure that your entity's registration in the System for Award Management is current and unexpired and send a printout of the entity registration from sam.gov to this department.

I look forward to working with your system on this project. Please contact me at (605)394-2229 or via email at abbey.larson@state.sd.us if you have any questions.

Sincerely,

Abbey Larson
Engineer I
Environmental Funding Program

cc: Lysann Zeller, Black Hills Council of Local Governments, Rapid City
Chris Robinson, HDR Engineering, Rapid City

**PAYMENT PROVISION CHECKLIST
OF REQUIRED DOCUMENTS**
ARPA GRANTS

Grant Number 2022G-ARP-200

The following documents, as indicated, must be submitted prior to the drawdown and receipt of any funds under this grant:

_____ Project plans and specifications as approved by a professional architect or engineer licensed and registered in South Dakota as outlined in Item #26 of the Grant Agreement.

_____ Resolution authorizing the signatory on the grant agreement and for payment requests as outlined in Item #9 of the Grant Agreement.

_____ Submit and complete the "Vendor ACH Authorization Form."

_____ Verification of current, unexpired entity in the System for Award Management (sam.gov).

**STATE OF SOUTH DAKOTA
BOARD OF WATER AND NATURAL RESOURCES
Grant Number 2022G-ARP-200**

**Sub-Recipient Agreement
Between**

City of Summerset

State of South Dakota,
Acting through the South Dakota Conservancy
District,
Acting through the South Dakota Board of Water
and Natural Resources, a governmental agency, and
body politic and corporate of the State of South
Dakota

7055 Leisure Lane
Summerset SD 57718

523 East Capitol Avenue
Pierre SD 57501-3182

Referred to as Sub-Recipient

Referred to as State

The State and Sub-Recipient hereby enter into this Agreement (hereinafter the "Agreement") for a grant award of Federal financial assistance to Sub-Recipient.

A. REQUIRED AUDIT PROVISIONS FOR GRANT AWARDS

1. FEDERAL AWARD IDENTIFICATION

- a. Sub-Recipient's name: City of Summerset
- b. Sub-Recipient's DUNS number and unique entity identifier: 782740091
- c. Federal Award Identification Number (FAIN): SLFRP5319
- d. Federal Award Date: 08/25/2021
- e. Sub-award Period of Performance: Execution of Agreement through the 31st day of December 2026.
- f. Amount of federal funds obligated to the Sub-Recipient by this Agreement: \$3,596,279
- g. Total amount of federal funds obligated to the Sub-Recipient: \$3,596,279
- h. Total amount of the federal award committed to the Sub-Recipient: \$3,596,279
- i. The federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA), is as follows:

The state and local fiscal recovery funds program authorized by the American Rescue Plan Act provides funding to support urgent Covid-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control; replace lost revenue for eligible state, local, territorial, and tribal governments to strengthen support for vital public services and help retain jobs; support immediate economic stabilization for households and businesses; to make necessary investments in water, sewer, and broadband infrastructure; and cover the cost of other eligible activities. activities to be performed: treasury will make direct payments to states (defined to include the district of Columbia), U.S. Territories (defined to include, Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), tribes, metropolitan cities, counties, consolidated governments, and nonentitlement units of local government (through states)(collectively "eligible entities") to use the funding for the eligible purposes outlined in the program statute, treasury's implementing regulations, and guidance. end goal/expected outcomes: the state and local fiscal recovery funds program funding will: (1) provide the necessary assistance for households, small businesses, nonprofits, and impacted industries, such as tourism, travel, and hospitality to respond to the Covid-19 public health emergency or its negative impacts; (2) be used to cover premium pay to eligible workers of the governments performing essential work during the Covid-19 pandemic or used to provide grants to eligible employers that have eligible workers who perform essential work; (3) provide government services, to the extent covid-19 caused a reduction of revenues collected in the most recent full fiscal year of the government; or (4) make the necessary investments in water, sewer, or broadband infrastructure. intended beneficiaries: essential workers, households, small businesses, nonprofits, the governments of the eligible entities, the general public, etc. subrecipient activities: subrecipient activities are not known at this time.

- j. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity: U.S. Treasury
- k. CFDA No(s) and Name(s): 21.027 Coronavirus State and Local Fiscal Recovery Funds
- l. Is the grant award for research and development (R&D)? YES ____ NO X
- m. Indirect Cost Rate for federal award: 0.00%

2. PERIOD OF PERFORMANCE OF THIS AGREEMENT:

This Agreement shall be effective upon execution by all parties and will end on the 31st day of December, 2026 unless sooner terminated pursuant to the terms hereof. The timely and expeditious use of grant funds is necessary assure availability of American Rescue Plan Act of 2021 funds for the project. To assure the funds will be expended prior to federal deadline requirements the project milestone deadlines in sections (a) through (d) of this section are hereby incorporated into the period of performance.

- a. Submit complete plans and specifications for the Project to the State on or before March 1, 2024;
- b. Execute construction contracts on or before December 31, 2024;

- c. Disbursements of 50 percent or more of the grant funds provided for this Project must be requested for reimbursement with qualifying eligible costs on or before June 1, 2026;
- d. Disbursements of 90 percent or more of the grant funds provided for this Project must be requested for reimbursement with qualifying eligible costs on or before October 1, 2026; and
- e. Final reimbursement request from Sub-Recipient must be submitted to State on or before December 1, 2026.

If the Sub-Recipient fails to meet the deadlines set forth in this section all undisbursed grant funds may be de-obligated and reverted back to the State for reallocation to other eligible projects at the sole discretion of the State. In the event that deadlines are met for only a portion of the Project, only that portion of the Project shall be eligible for grant funds. The grant amount will be adjusted based on the amount of the contract or contracts awarded in compliance with the deadlines in proportion to total construction cost for the Project as identified in the funding application.

No action or motion will be required by the Board of Water and Natural Resources to allow for the reduction of grant funds as set forth herein. The State will prepare the grant amendment with the new reduced grant amount. The Sub-Recipient is required to sign the Amendment or risk forfeiture of all State ARPA grant funds.

3. SCOPE OF WORK AND PERFORMANCE PROVISIONS:

The Sub-Recipient agrees to use the funds to undertake a Wastewater Treatment Plant Expansion project, which project shall be constructed in accordance with the workplan attached hereto as Exhibit A, and by this reference made part hereof. No expenditures may be incurred outside of the attached workplan without prior approval by the State or its designated agent. Eligible costs incurred prior to the effective grant award date are eligible for reimbursement, if incurred after March 3, 2021.

The State and the Sub-Recipient agree that all obligations under this Agreement are conditioned upon satisfactory compliance with the requirements outlined in the workplan which must be performed in compliance with the federal American Rescue Plan Act of 2021 (ARPA) and the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions attached hereto as Exhibit B and by this reference made a part hereof.

4. BASIS FOR SUBAWARD AMOUNTS:

This grant is made for the purpose of a Wastewater Treatment Plant Expansion project and payment will be made by the State after the State reviews eligible project costs in a manner as described in section 9.

Federal Amount provided by State is	\$3,596,279
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If the Sub-Recipient has pledged matching grant funds for the project from non-State ARPA funds, the State ARPA grant funds will not be disbursed until those matching grant funds or an equivalent amount is expended.

Once bids open for all construction contracts included in the Project, grant funds may be adjusted by the program. If the total contract amounts are five or more percent less than the estimated project construction and contingencies as set forth in the funding application budget sheet on page 3, lines 4, 5, and 10, the grant funds will be reduced proportionally.

The reduction percentage will be determined by dividing the total contract amount by the sum of lines 4, 5, and 10 of the budget sheet.

Sub-recipient is aware of the procurement requirements set forth in the ARPA, including those requirements for engineering procurement. In the event Sub-recipient has not complied with those engineering procurement requirements as referenced in ARPA and described more fully in 2 CFR 200.317 through 200.327, the State reserves the right to issue funds from other funding programs rather than ARPA grant funds. Sub-recipient further understands and agrees that Sub-recipient's failure to comply with the engineering procurement requirements as set forth herein would make ARPA grant funds unavailable for the engineering portion of the project, and therefore accepts the other program funds for such engineering procurement and in lieu of any additional demands against the state for grant funds of any type.

No action or motion will be required by the Board of Water and Natural Resources to allow for the reduction of grant funds as set forth herein. The State will prepare the grant amendment with the new reduced grant amount. The Sub-Recipient is required to sign the Amendment or risk forfeiture of all State ARPA grant funds.

5. RISK ASSESSMENTS, MONITORING AND REMEDIES

Risk assessments will be ongoing throughout the project period. Sub-Recipient agrees to allow the State to monitor Sub-Recipient to ensure compliance with program requirements, to identify any deficiencies in the administration and performance of the award and to facilitate the same. At the discretion of the State, monitoring may include but is not limited to the following: On-site visits, follow-up, document and/or desk reviews, third-party evaluations, virtual monitoring, technical assistance and informal monitoring such as email

and telephone interviews. As appropriate, the cooperative audit resolution process may be applied.

Sub-Recipient agrees to comply with ongoing risk assessments, to facilitate the monitoring process, and further, Sub-Recipient understands and agrees that the requirements and conditions under the grant award may change as a result of the risk assessment/monitoring process.

In the event of noncompliance or failure to perform under the grant award, the State has the authority to apply remedies, including but not limited to: temporary withholding payments, disallowances, suspension or termination of the federal award, suspension of other federal awards received by Sub-Recipient, debarment, or other remedies including civil and/or criminal penalties as appropriate.

6. RETENTION AND INSPECTION OF RECORDS:

The Sub-Recipient agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, and statistical, fiscal, and other information records necessary for reporting and accountability required by the State. The Sub-Recipient shall retain such records for a period of three years after the date of the submission of the final expenditure report.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. The three-year retention period may be extended upon written notice by the State. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition. When records are transferred to or maintained by the Federal awarding agency or the State, the three-year retention requirement is not applicable to the Sub-Recipient. In the event Sub-Recipient must report program income after the period of performance, the retention period for the records pertaining to the earning of the program income starts from the end of Sub-Recipient's fiscal year in which the program income is earned. In the event the documents and their supporting records consist of indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, the following applies: (1) If submitted for negotiation - If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the State) to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission. (2) If not submitted for negotiation - If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the State) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the Sub-Recipient's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

The State, through any authorized representative, shall have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement and shall have access to personnel of the Sub-Recipient for purposes of interview and discussion related to the records, books, papers and documents. State Proprietary Information, which shall include all information disclosed to the Sub-Recipient by the State, shall be retained in Sub-Recipient's secondary and backup systems and shall remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Sub-Recipient's established record retention policies.

All payments to the Sub-Recipient by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment under this Agreement shall be returned to the State within thirty days after written notification to the Sub-Recipient.

7. AUDIT REQUIREMENTS:

If Sub-Recipient expends \$750,000 or more in federal awards during the Sub-Recipient's fiscal year, the Sub-Recipient must have an audit conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General's approval should be obtained annually. Approval of an auditor must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit
A-133 Coordinator
427 South Chapelle
% 500 East Capitol
Pierre, SD 57501-5070

If the Sub-Recipient expends less than \$750,000 during any Sub-Recipient fiscal year, the State may perform a more limited program or performance audit related to the completion of the Agreement objects, the eligibility of services or costs, and adherence to Agreement provisions.

Audits shall be completed and filed with the Department of Legislative Audit by the end of the 9 months following end of the fiscal year being audited.

For either an entity-wide, independent financial audit or an audit under 2 CFR Part 200 Subpart F, the Sub-Recipient shall resolve all interim audit findings to the satisfaction of the auditor. The Sub-Recipient shall facilitate and aid any such reviews, examinations, agreed upon procedures etc., the State or its contractor(s) may perform.

Failure to complete audit(s) as required, including resolving interim audit findings, will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completely resolved.

The Sub-Recipient shall be responsible for payment of any and all audit exceptions which are identified by the State. The State may conduct an agreed upon procedures engagement as an

audit strategy. The Sub-Recipient may be responsible for payment of any and all questioned costs, as defined in 2 C.F.R. 200.84, at the discretion of the State.

Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of the Sub-Recipient must be made available if needed and upon request at the Sub-Recipient's regular place of business for audit by personnel authorized by the State. The State and/or federal agency has the right to return to audit the program during performance under the grant or after close-out, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.

If applicable, Sub-Recipient agrees to comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2CFR Part 200 (Uniform Administrative Requirements).

8. SUB-RECIPIENT ATTESTATION

By signing this Agreement, Sub-Recipient attests to the following requirements as set forth in SDCL § 1-56-10:

- a. A conflict of interest policy is enforced within the recipient's or Sub-Recipient's organization;
- b. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or Sub-Recipient's website;
- c. An effective internal control system is employed by the recipient's or Sub-Recipient's organization; and
- d. If applicable, the recipient or Sub-Recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or Sub-Recipient's website.

Sub-Recipient further represents that any and all concerns or issues it had in complying with the foregoing attestations were provided to the State and resolved to their satisfaction prior to signing this Agreement.

If Sub-recipient is a non-state agency they agree to disclose to the State, in writing, any conflicts of interest that exist under the Sub-recipient's conflict of interest policy. The State will publicly post any disclosed conflicts of interest along with the corresponding grant agreement on the OpenSD website.

In the event of a significant change in the conflict of interest policy, Sub-Recipient agrees to provide immediate notice of such change to the State, and provide a copy of the new conflict of interest policy. Sub-Recipient understands that any change in the conflict of interest policy may result in a change in their monitoring or other performance requirements

under the grant and expressly agrees to comply with those changes and to facilitate any additional monitoring as required by the State.

9. CLOSEOUT

- a. Grant proceeds will be disbursed upon receipt of sub-recipient payment requests and invoices to support such requests, throughout the project and after determining that the requested payment and invoices are for costs that meet the eligibility outlined in the workplan.
- b. The Sub-Recipient will designate, in writing, an official to certify on Sub-Recipient's behalf that the request submitted is correct and is a valid expenditure under the workplan.
- c. Sub-Recipient will submit a signed request for disbursement along with invoices to support the request. The request for disbursement will be submitted to such person or persons as the State may designate for approval.
- d. The State reserves the right, at its option, to disburse the funds directly to the contractor or sub-contractor supplying the service for which the payment is sought. No funds will be disbursed until all fees owed by the Sub-Recipient to the Department of Agriculture and Natural Resources are paid.
- e. All requests for disbursement for eligible costs under this Agreement not presented within ninety (90) days after the completion of the term of this Agreement or on or before December 1, 2026, are barred from payment.

B. STANDARD CLAUSES

10. ASSURANCE REQUIREMENTS:

The Sub-Recipient agrees to abide by all applicable provisions of the following: Byrd Anti Lobbying Amendment (31 USC 1352), Debarment and Suspension (Executive Orders 12549 and 12689 and 2 C.F.R. 180), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity as amended by Executive Order 11375 and implementing regulations at 41 C.F.R. part 60, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009, as applicable; and any other nondiscrimination provision in the specific statute(s) under which application for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply to the award.

11. COST PRINCIPLES:

If applicable, Sub-Recipient agrees to comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2CFR Part 200 (Uniform Administrative Requirements) and 2 CFR Part 1500.

12. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Sub-Recipient breaches any of the terms or conditions hereof, this Agreement may be terminated by the State for cause at any time, with or without notice and the Sub-Recipient shall be obligated to reimburse the State for any funds theretofore improperly expended by or for the benefit of the Sub-Recipient, or any part thereof, and if not promptly paid the State may pursue all rights and remedies under any applicable laws or regulations. Upon termination of this Agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

13. FUNDING:

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

14. ASSIGNMENT AND AMENDMENT:

This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

15. CONTROLLING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

16. SUPERCESSION:

All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

17. SEVERABILITY:

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, which shall remain in full force and effect.

18. NOTICE:

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Sub-Recipient, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

19. SUBCONTRACTORS/SUB-SUB-RECIPIENTS:

The Sub-Recipient will not use subcontractors or other sub-recipients to perform work under this Agreement without the express prior written consent from the State. The State reserves the right to complete a risk assessment on any proposed sub-contractor or sub-recipient and to reject any person or entity presenting insufficient skills or inappropriate behavior.

The Sub-Recipient will include provisions in its subcontracts or sub-grants requiring its subcontractors and sub-recipients to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Sub-Recipient will cause its subcontractors, sub-recipients, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subcontractors and sub-recipients. The Sub-Recipient is required to assist in this process as needed.

20. STATE'S RIGHT TO REJECT

The State reserves the right to reject any person or entity from performing the work or services contemplated by this Agreement, who present insufficient skills or inappropriate behavior.

21. CONFLICT OF INTEREST:

Sub-Recipient agrees to establish safeguards to prohibit any employee or other person from using their position for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain as contemplated by SDCL 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing and approved, in writing, by the State. In the event of a conflict of interest, the Sub-Recipient expressly agrees to be bound by the conflict of interest resolution process set forth in SDCL § 5-18A-17 through 5-18A-17.6.

22. TERMS:

By accepting this Agreement, the Sub-Recipient assumes certain administrative and financial responsibilities. Failure to adhere to these responsibilities without prior written approval by the State shall be a violation of the terms of this Agreement, and the Agreement shall be subject to termination.

23. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Sub-Recipient certifies, by signing this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or any state or local government department or agency. Sub-Recipient further agrees that it will immediately notify the State if during the term of this Agreement it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

C. AGENCY OR GRANT SPECIFIC CLAUSES

24. COMPLIANCE WITH EXECUTIVE ORDER 2020-01

By entering into this Agreement, Sub-Recipient certifies and agrees that it has not refused to transact business activities, it has not terminated business activities, and it has not taken other similar actions intended to limit its commercial relations, related to the subject matter of this Agreement, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Sub-Recipient further agrees to provide immediate written notice to the State if during the term of this Agreement it no longer complies with this certification, and agrees such noncompliance may be grounds for termination of this Agreement.

25. TECHNICAL ASSISTANCE:

The State agrees to provide technical assistance regarding the State's rules, regulations and policies to the Sub Recipient and to assist in the correction of problem areas identified by the State's monitoring activities.

26. LICENSING AND STANDARD COMPLIANCE:

The Sub-Recipient agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this Agreement. The Sub-Recipient will

maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Sub-Recipient's failure to ensure the safety of all individuals served is assumed entirely by the Sub-Recipient.

The funding of this Wastewater Treatment Plant Expansion project in no way obligates the State to provide future funding for design or construction of additional improvements.

The Sub-Recipient will comply and will insure that the engineer and construction contractor selected to oversee the project complies, with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

Sub-Recipient will construct the Project, or cause it to be constructed, to final completion with reasonable diligence in accordance with the approved plans and specifications and the approved Project scope for the grant.

Sub-Recipient will ensure that construction administration and inspection is done by or under the supervision of a professional engineer or architect licensed and registered in the State of South Dakota to help assure that the construction contractor's work conforms with the approved plans and specifications, and to furnish inspection and material testing reports, recommendations and such other information as the State may require. It is recognized and understood that the final responsibility of conformance with the plans and specifications is that of the construction contractor. The State has the right to monitor facility and design through on-site inspections from time to time.

27. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

As required by 2 CFR 200.216, recipients and sub-recipients, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, sub-recipients, and borrowers also may not use funds to purchase:

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances: Obligating or expending funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:

(1) Procure or obtain, extend or renew a contract to procure or obtain;

(2) Enter into a contract (or extend or renew a contract) to procure; or

(3) Obtain the equipment, services, or systems. Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list.

28. PROJECT REPRESENTATIONS AND COVENANTS.

The Sub-Recipient hereby represents and covenants that:

a. all construction on the Project has complied and will comply with applicable federal, state and local laws, regulations, ordinances, and standards, including specifically federal requirements that all of the iron and steel products used in the Project are to be produced in the United States;

b. all land surveys are conducted by a land surveyor registered in the State of South Dakota, and that the final plans and specifications are prepared under the supervision of and approved by a professional architect or engineer licensed and registered in the State of South Dakota.

c. the Project is the type of project permitted to be financed under the applicable Program, the Act, and the laws governing the issuance of the Grant.

29. REDUCTION OF PROJECT COSTS

If all or a portion of the Project is canceled or scaled back and the costs of the Project are thereby reduced, or if for any reason the Sub-Recipient will not require the full amount of the Grant, the Sub-Recipient shall promptly notify the State and return the portion of the Grant which will not be needed.

No action or motion will be required by the Board of Water and Natural Resources to allow for the reduction of grant funds as set forth herein. The State will prepare the grant amendment with the new reduced grant amount. The Sub-Recipient is required to sign the Amendment or risk forfeiture of all State ARPA grant funds.

30. COMPLIANCE WITH THE DAVIS-BACON ACT

- a. For projects in excess of \$10 million all transactions regarding this agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable;
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor; and
- c. Contractors are required to pay wages not less than once a week.

31. HOLD HARMLESS

The Sub-Recipient agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Sub-Recipient to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

No part of the funding provided hereunder may be utilized for the payment of costs associated with litigation directly or indirectly involving the Sub-Recipient or the Foremain Improvement project. No member of the Sub-Recipient's governing body or other officers, agents, employees or immediate family members, shall receive direct personal benefit from this Agreement other than reasonable compensation for services rendered, expenses incurred in furtherance of the purposes herein authorized, or benefits received as a member of general public served by the Sub-Recipient.

32. FLOW DOWN

All "flow down" requirements are imposed on the subrecipient by the State to ensure that the award is used in accordance with Federal statutes, regulations and the terms of the award. The subrecipient is accountable to the State for compliance with Federal requirements. These requirements include, among others:

- a. Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.

- b. Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the ARPA compliance provisions.
- c. The Procurement Standards in 2 CFR Part 200 including those requiring competition when the subrecipient acquires goods and services from contractors (including consultants) and Domestic preferences for procurements at 2 CFR 200.322. This provision does not apply to consulting services if the Sub-Recipient utilizes funds other than those provided by this Agreement to pay those costs.
- d. Subawards are not conditioned in a manner that would disadvantage applicants for subawards based on their religious character.
- e. Ensuring the Future is Made in All of America by All of America's Workers Recipients must comply with the "Build America, Buy America" provisions of the Infrastructure investment and Jobs Act and E.O. 14005 which provide that, as appropriate and to the extent consistent with law, the recipient must use all practicable means within their authority under a federal award to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products.)

D. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

Sub-Recipient Signature

Date

Jerry Soholt, Chair

Date

EXHIBIT A

Summerset proposes to increase its wastewater treatment plant capacity by 100 percent by expanding the capacity of the sequencing batch reactor process, aerobic digesters, blowers, and reed beds.

EXHIBIT B

U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS

1. Use of Funds.

- a. Sub-Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. Sub-Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
- c. Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

2. Reporting. All recipients of federal funds must complete financial, performance, and compliance reporting and Sub-Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definition of expenditures pursuant to 2 CFR 200.1.

3. Maintenance of and Access to Records

- a. Sub-Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Sub-Recipient in order to conduct audits or other investigations.
- c. Records shall be maintained by Sub-Recipient for a period of three (3) years after all funds have been expended or returned to Treasury, whichever is later.

4. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

5. Conflicts of Interest. Sub-Recipient understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this award. Sub-Recipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
6. Compliance with Applicable Law and Regulations.
 - a. Sub-Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Sub-Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Sub-Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all low tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Sub-Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - c. Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity.) Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
7. Remedial Actions. In the event of Sub-Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

RESOLUTION NO. 2022-14

RESOLUTION GIVING APPROVAL TO CERTAIN SEWER 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 PROJECT 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 AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE BONDS.

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 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 by Section 6 of the Act to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned without pledging its credit and is authorized to pledge the net income or revenues from the Project in accordance with Section 15 of the Act; and,

WHEREAS, the City of Summerset (the “City”) currently operates a sewer system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; and for the control of floods and drainage and has determined that improvements to the sewer facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its sewer system; and,

WHEREAS, the City has determined to issue its revenue bonds to finance the improvements to its sewer system for the purpose of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes (the “System”) and has applied to the South Dakota Conservancy District (the “District”) for a Clean Water State Revolving Fund Loan to finance the improvements;

WHEREAS, the City shall adopt special rates or surcharges for the improvements to be pledged, segregated and used for the payment of the Bonds.

NOW THEREFORE BE IT RESOLVED by the City as follows:

SECTION 1. Definitions. The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in this

Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

“Act” means South Dakota Codified Laws Chapter 9-40.

“Loan” means the Loan made by the South Dakota Conservancy District to the City pursuant to the terms of the Loan Agreement and as evidenced by the Revenue Bond.

“Project” means the City of Summerset Wastewater Treatment Plant Expansion.

“Revenue Bond” means the revenue bond or bonds issued the date of the Loan Agreement by the City to the South Dakota Conservancy District to evidence the City’s obligation to repay the principal of and pay interest and Administrative Expense Surcharge on the Loan.

“System” means the City’s system of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes.

SECTION 2. Declaration of Necessity and Findings.

2.1.1. Declaration of Necessity. The City hereby determines and declares it is necessary to construct and finance improvements to its System described as the Project.

2.2. Findings. The City does hereby find as follows:

2.2.1. The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants and will make the City unable to comply with state and federal law.

2.2.2. 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-2, and the federal Clean Water Act, and the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

2.2.3. The City hereby determines and finds that for the purposes of the Act, including, in particular, Sections 15 and 17 of the Act, only the net income from the Project financed by the Revenue Bond be pledged for its payment.

SECTION 3. Authorization of Loan, Pledge of Revenue and Security.

3.1. Authorization of Loan. The City hereby determines and declares it necessary to finance up to \$3,120,600 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the City. 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 Section 15 of the Act no election is required to issue the Revenue Bond.

3.2. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is on file with the Finance Officer (the "Finance Officer") and open to public inspection, 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.

3.3. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$3,120,600 as determined according to the Loan Agreement in the form and content set forth in Appendix 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 Section 19 of the Act.

3.4. 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 Project 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, interest and Administrative Surcharge 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 Project 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 Project, and depreciation, and the Rate Resolution 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 3 or any other covenant or agreement in the Loan Agreement.

SECTION 4. Special Charge or Surcharge for Revenue Bond.

4.1. The City does hereby create the Revenue Bond Special-Surcharge District (the “Surcharge District”) which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.

4.2. Rates and collection. The rate herein specific will be collected as a special charge or surcharge for the Project. This special charge or surcharge shall remain in effect until such time as the Revenue Bond is defeased or paid in full.

4.3. Initial Surcharge. The initial special charge or surcharge shall be set by resolution and collected at the same time as other charges of the utility. All users within the Surcharge District which benefit from the Project, current and future, shall be charged the special charge or surcharge. The special charge or surcharge is found to be equitable for the services provided by the Project. The special charge or surcharge shall begin at such time as will produce sufficient revenue to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due.

4.4. Segregation. The Finance Officer shall set up bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue, special charges and surcharges.

4.5. Periodic review. The amount of the surcharge shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement’s rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. The surcharge may be set by resolution in accordance with this Section. The rate resolution shall be necessary for the support of government and shall be effective upon passage.

SECTION 5. Additional Bonds. As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System or Project may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the 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.

SECTION 6. Project Fund Accounts. For the purpose of application and proper allocation of the income of the Project and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the sewer system account of the City and shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

6.1. Project Revenue Account. There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the resolutions and ordinances of the City of Summerset, South Dakota (collectively the "Rate Resolution"). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

6.2. Project Debt Service Account. Out of the revenues in the Project Revenue Account, there shall be set aside no later than the 25th day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal of, interest and Administrative Surcharge on the Revenue Bonds 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 Administrative Surcharge payable on the following February 15, May 15, August 15 or November 15 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.

6.3. Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the Project Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the Common Council to be a proper and adequate amount for repair and depreciation of the Project.

6.4. Project Surplus Account. There shall be established the Project Surplus Account. Revenues remaining in the Project 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 transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Common Council shall authorize the Finance Officer to rectify such default so far as possible by the transfer of money from the Project 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.

When not required to restore a current deficiency in the Project Debt Service Account, moneys in the Project Surplus Account from time to time may be used for any of the following purposes and not otherwise:

- (a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;
- (b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:
- (c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or
- (d) To be used for any other authorized municipal purpose designated by the Common Council.
- (e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

SECTION 7. Approval of Paying Agent/Registrar. The Revenue Bond shall be payable at the office of U.S. Bank National Association, St. Paul, Minnesota, hereby designated as paying agent and registrar.

SECTION 8. Approval of Bond Counsel. Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

SECTION 9. Tax Matters. The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (“the Code”) and applicable Treasury Regulations (the “Regulations”).

SECTION 10. Covenants. The City hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

10.1. The City 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.

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

10.3. The City covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal and interest on the Revenue Bond, and the City agrees not to 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.

10.4. 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; 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 and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

SECTION 11. Depositories. 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. 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.

SECTION 12. Consent to Appointment. In the event of mismanagement of the Project, 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 Project 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 Section 33 of the Act, and agrees that the receiver will have the powers set forth therein, and in

Sections 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

SECTION 13. 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.

SECTION 14. Repeal of Resolution. At such time as the Revenue Bond is defeased or paid in full, this Resolution and the special charge or surcharge shall automatically be repealed without any further action of the City.

SECTION 15. 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.

SECTION 16. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Adopted at Summerset, South Dakota, this ____ day of _____ 2022.

APPROVED:

Mayor

(SEAL)

Attest: _____
Finance Officer

First reading: _____
Published: _____
Effective: _____

RESOLUTION NO 2022-15

A RESOLUTION PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO THE CITY OF SUMMERSET SEWER SYSTEM, FOR PAYMENT OF A BORROWER BOND AND YEARLY REVIEW OF THE SURCHARGE.

1. **Surcharge for Bond Issue.** There shall be charged a monthly surcharge for the services provided by the improvement financed by the CW-_____ Conservancy District loan. The surcharge for the loan shall be segregated from other revenues of the City and shall be used for the payment of the Borrower Bond CW-_____ (the "Borrower Bond"). Provided that such surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements, and operation, sufficient to fund interest, reserve, and debt service fund annual requirements.
2. **Rates and collection.** The City of Summerset does hereby establish the special charge or surcharge payable by each customer of its system who receives or benefits from the services of the project financed by the CW-_____ loan with the Borrower Bond. Such charge or surcharge shall be set at a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Borrower Bond and the administrative expense surcharges and all other payments as may be required under the loan agreement and Borrower Bond. The collection of the Surcharge will start on the _____ day of _____, 20____.
3. **Borrower Bond Surcharge.** The following sewer system debt service surcharge shall be applicable to all customers served whether in or out of the city or whether retail or sales or resale:

Borrower Bond CW-_____ Surcharge: \$_____ per user.

The surcharge shall remain in effect until such time as the Borrower Bond is paid in full. The surcharge shall be collected at the same time as other charges of the sewer system. The surcharge is found to be equitable for the services provided by the improvements.

4. **Segregation.** The debt service surcharge shall be segregated from other income of the sewer system in a separate bookkeeping account and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the Borrower Bond.
5. **Yearly review.** The amount of the surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by city personnel and administratively adjusted, upwards or downwards, pursuant to SDCL § 9-40-15 to such amounts as may be necessary to pay principal, interest, administrative surcharge, and other charges as may become due and owing under loan agreement or the Borrower Bond.
6. **Billing and Accounting.** The surcharge shall be included in the monthly sewer/garbage bill. Nothing contained herein requires the surcharge be indicated on the billing, however, the surcharge segregation shall be indicated on the books of the City.

7. **Surcharge not to create constitutional indebtedness.** The charges provided herein are for the purpose of paying the Borrower Bond of the City which do not constitute indebtedness within the meaning of South Dakota Constitutional Chapter XIII Section 4.
8. **Automatic Repeal.** The surcharge for the Borrower Bond shall be automatically repealed when the Borrower Bond is paid in full.
9. **Partial Invalidity.** If any one or more of the provisions of this Resolution shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

Melanie Torno, Mayor

ATTEST:

Asst. Finance Officer Brielle Schrock

Passed: July 21st, 2022

Published:

Effective:

Published once at the total approximate cost
of _____.



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SUMMERSET, CITY OF Active Registration

UNIQUE ENTITY ID

X5BWCAJGRK98

PURPOSE OF REGISTRATION

FEDERAL ASSISTANCE AWARDS ONLY

PHYSICAL ADDRESS

7055 LEISURE LN

SUMMERSET, SD 57718-9778

USA

CAGE/NCAGE

7RQ81

EXPIRATION DATE

JUN 24, 2023

What would you like to update?

☐ I would like to update my Points of Contact

Points of Contact updates are effective immediately.



Substitute **W-9**

Taxpayer Identification Number (TIN) Verification

DO NOT send to IRS

Print or Type

Please see attachment or reverse for complete instructions.

This form can be made available in alternative formats to qualified individuals upon request.

Legal Name (as entered with IRS) If Sole Proprietorship enter your Last, First MI	Entity Designation (check only one) <u>Required</u> <input type="checkbox"/> Individual / Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Limited Liability Company - Individual <input type="checkbox"/> Limited Liability Company - Partnership <input type="checkbox"/> Limited Liability Company - Corporation <input type="checkbox"/> Governmental Entity <input type="checkbox"/> Hospital Exempt from Tax or Government Owned <input type="checkbox"/> Long Term Care Facility Exempt from Tax or Government Owned <input type="checkbox"/> Trust/Estate <input type="checkbox"/> All Other Entities (specify e.g. 501(c)(3), etc.)
Business Name If doing business as (DBA) or enter business name of Sole Proprietorship	Taxpayer Identification Number (TIN) _____
Order Address (where order should be mailed) PO Box or Number and Street, City, State, ZIP + 4	
Remit Address (where check should be mailed) PO Box or number and street, City, State, ZIP + 4	
Exemptions Exempt payee code (if any): Exemption from FATCA reporting code (if any):	Check Only One <u>Required</u> <input type="checkbox"/> Social Security Number (SSN) <input type="checkbox"/> Employer Identification Number (EIN) <input type="checkbox"/> Individual Taxpayer Identification Number for U.S. Resident Aliens (ITIN)

Certification
Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number, AND
2. I am not subject to back up withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to back up withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.
3. I am a U.S. person (including a US resident alien).

Printed Name	Printed Title	Telephone Number ()
Signature		Date (mm/dd/yy)

Required Direct Deposit Information

Your Bank Account Number	<input type="checkbox"/> Checking <input type="checkbox"/> Savings	Bank Routing Number (9-digit ABA #)	Name on Bank Account
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THIS IS A:
☐ new direct deposit ☐ change of existing (providing old banking information required to change existing)

Old Bank Account Number	Old Routing Number (9-digit ABA #)	You must provide the previous banking information to make a change.
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Required e-mail address (Please make this LEGIBLE)

If you provide an email address you will be sent electronic notification when a payment is issued. You will also receive a PIN for use when logging into the SD Vendor Self Service website at <http://bfm.sd.gov/vendor>. We will **NOT** share your email address with anyone or use it for any purpose other than communicating remittance information.

Information below to be completed by the State Agency. Vendor Number required for any new vendors added to SDAS.			
State Agency:	Agency Contact:	Date:	Vendor Number assigned by SDAS:

SUMMERSET CITY COMMISSION CODE OF ETHICS

WHEREAS, it is the duty of the City of Somerset to ensure the efficient, fair and professional administration of city government and services,

NOW, THEREFORE, the Somerset City Commission hereby adopts the following code of ethics for members of the Somerset City Commission engaged in the administration of city governments and providing of services to the public:

City Commissioners shall:

1. Recognize that the authority vests with the majority of the city commission when assembled in open meetings or executive meetings as authorized by law, that no city commissioner has legal status to bind the City of Somerset, and that no individual commission member or a minority of commission members may make decisions on behalf of the City of Somerset unless expressly authorized by law and upon approval of the city commission;
2. Make informed decisions on matters brought before the commission, including to be prepared to make said decisions by reviewing documents and items pertaining to matters the commission will be addressing at the commission meeting;
3. Recognize and adhere to the policy that it is the responsibility of the city commission and members of the city commission to plan, make, implement, appraise and enforce ordinances and policy and that it is not the responsibility of the city commission or members of the commission to run the day-to-day operations of the City of Somerset;
4. Observe and enforce federal laws, state laws, city ordinances and policies;
5. Respect the limited intent and scope of executive sessions as set forth in statute;
6. Respect privileged communications made during executive sessions held pursuant to SDCL 1-25-2 and shall not divulge privileged communications made during executive session held pursuant to SDCL 1-25-2 unless required by law or with the prior approval of the city commission;
7. Distinguish between personal views and those of the city commission when making public comments regarding city matters;
8. Present information to the city commission without distortion and accurately represent facts concerning city matters in direct or indirect public statements;
9. Maintain professional relationships in a manner which are free of vindictiveness, recrimination and harassment;
10. Avoid impropriety and the appearance of impropriety in his/her position as an elected official;
11. Refer all public complaints and personal criticisms to the appropriate administrative officer or appointed public official and only after inability to have resolution at the administrative level have the complaint or criticism discussed at a commission meeting;
12. Respect the legitimacy of the goals and interests of other city commission members and respect the rights of other commission members to pursue goals and policies different from their own;
13. Respect, require and contribute to the maintenance of order and decorum in

- proceedings before the city commission;
14. Be honest, patient, dignified and courteous to those with whom he/she deals in with in his/her official capacity;
 15. Dispose promptly of the business of the city for which he/she is responsible and diligently discharge responsibilities;
 16. To the maximum extent possible, inform the mayor by 1 p.m. on the Tuesday prior to a regularly scheduled Thursday commission meeting if the commissioner will not be in attendance at the commission meeting;
 17. Attendance of the board - similar to P&Z's requirements
 18. Refrain from financial, personal, professional and business dealings that interfere with, are in conflict with or give the appearance of being in conflict with the proper performance of official duties;
 19. Not exploit the City of Summerset or use the office of city commissioner for personal gain, for the gain of friends or supporters, or to promote political candidates or partisan political activities;
 20. Not accept nor offer any gratuities, gifts, services or things of value that (a) impair professional judgment, (b) offer special advantage or benefit to any person or organization, or (c) provide a direct or indirect personal benefit.
 20. Not commit any act of moral turpitude or gross immorality;
 21. Not allow family, social or other relationships to inappropriately influence his/her decisions as a commission member.

If a member of the Summerset City Commission believes there has been a violation of the Code of Ethics, the Commission **shall** first address the matter in Executive Session. If a majority of the Commission believes a violation of the Code of Ethics did occur, the Commission **may** take the following action, by a motion/second/vote:

1. Issue a public reprimand upon returning to open session.
2. In open session refer the matter to the state's attorney's office seeking removal of the individual from the governing board pursuant to SDCL 3-17-6

Adopted: _____(Date)

Mayor Melanie Torno

Commissioner Alexis Nasser

Commissioner Dave Butler

Commissioner Mike Kitzmiller

Commissioner Clyde Hirsch

ATTEST:
(SEAL)

Finance Officer Candace Sealey

City of Summerset
Roles and Responsibilities
Five-Commissioner Form of Government

Composition and Qualification

Under the commission form, where a city manager is not employed, the board of commissioners shall consist of the mayor and two or four commissioners elected at large (§9-9-1). The commissioners must be citizens of the United States and residents and voters of the municipality (§9-9-2).

Before entering into the duties of their respective offices, the mayor and the commissioners must file an oath supporting the Constitution of the United States and of this/he/her state and to faithfully discharge the duties of his/he/her office. The oath also states that the official is not under direct or indirect obligation to appoint or elect any person to any office, position, or employment in the municipality (§9-9-4).

Finally, the mayor and the commissioners must also execute a bond, payable to the municipality, for the amount of two thousand dollars in second class cities, and for the amount of five thousand dollars in first class cities (§9-9-5).

Terms of Office

The term of office of the members of the board may not exceed five years as determined by ordinance (§9-9-3). - **should this/he/her be 3 years**

Vacancies

In case the mayor is unable to perform the duties of his/he/her office by reason of absence or sickness, the board shall appoint by a majority vote of all members thereof one of its members to act in his/he/her stead, whose official designation shall be "acting president of the board of commissioners." The commissioner so appointed shall be invested with all the powers and shall perform all the duties of the mayor during such absence of sickness (§9-9-8).

The resignation of the mayor or any commissioner shall be in writing to the board. The permanent removal of the mayor or any commissioner from the territorial limits of the municipality shall create a vacancy in his/he/her office (§9-9-6).

In case of a vacancy in the office of the mayor due to absence or disability, the board of commissioners shall appoint by a majority vote of all the members thereof one of its number as acting mayor, who shall be invested with all the powers and shall perform all duties of the mayor, during such absence or sickness (§9-9-8). A vacancy in the office of the mayor shall be filled by appointment pursuant to §9-9-8 until filled by election at the next annual election (§9-9-6) or by special election as provided in §9-13-14.2.

The Mayor

The mayor shall be **president (chief executive officer)** of the board and shall have a vote upon all questions but shall not have the right of veto (§9-9-7).

In a municipality with a five-member board, the mayor shall be the chief executive officer of the municipality, shall preside at all meetings of the board, and shall have general supervision over all departments and officers. In the absence or inability of a commissioner he/she shall temporarily take charge of the department of such

commissioner. He/she shall see that all the laws of the municipality are enforced and that the conditions of the grant of any franchise/he/she or privilege are faithfully complied with and performed. He/she shall grant all licenses or permits, except as such are required by ordinance to be granted by the board or by some other department or officer. He/she shall have under his/her special charge the supervision of all public buildings of the municipality and of all city parks except in municipalities having a park board, and the lighting of the streets, alleys, and public buildings of the municipality. He/she shall annually and from time to time give the board information relative to the affairs of the municipality and shall recommend for its consideration such measures as he/she may deem expedient (§9-9-20).

9-9-20. Mayor's area of responsibility in five-commissioner municipality. In a municipality governed by a board consisting of five members, the mayor shall have and exercise all the powers and perform all the duties provided by the laws of this/he/her state or the ordinances of the municipality not in conflict therewith. He/she shall be the chief executive officer of the municipality, shall preside at all meetings of the board, and shall have general supervision over all departments and officers. In the absence or inability of a commissioner he/she shall temporarily take charge of the department of such commissioner. He/she shall see that all the laws of the municipality are enforced and that the conditions of the grant of any franchise/he/she or privilege are faithfully complied with and performed. He/she shall grant all licenses or permits, except as such are required by ordinance to be granted by the board or by some other department or officer. He/she shall have under his/her special charge the supervision of all public buildings of the municipality and of all city parks except in municipalities having a park board, and the lighting of the streets, alleys, and public buildings of the municipality. He/she shall annually and from time to time give the board information relative to the affairs of the municipality and shall recommend for its consideration such measures as he/she may deem expedient.

Source: SL 1913, ch 119, § 19; SL 1915, ch 113, § 3; RC 1919, § 6225; SDC 1939, § 45.0806 (1); SL 1992, ch 60, § 2

The Commissioners

In a municipality governed by a board of five members, the commissioners shall designate by a majority vote one member who shall be known as the "public safety commissioner," one who shall be known as the "commissioner of public works," one who shall be known as the "utilities commissioner," and one who shall be known as the "commissioner of finance and revenue" (§9-9-18).

9-9-18. Designation of areas of responsibility in five-commissioner municipalities. In a municipality governed by a board of five commissioners, the commissioners shall designate by a majority vote one member who shall be known as the "public safety commissioner," one who shall be known as the "commissioner of public works," one who shall be known as the "utilities commissioner," and one who shall be known as the "commissioner of finance and revenue."

Source: SL 1913, ch 119, § 18; SL 1915, ch 113, § 2; RC 1919, § 6224; SDC 1939, § 45.0805; SL 1991, ch 69, § 1

The Public Safety Commissioner

The public safety commissioner shall have under his/her supervision the enforcement of all police regulations of the municipality and general supervision of the police and fire

departments and of their officers and employees and all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in the month of May each year. He/she shall have charge of all apparatus and personal property used by these departments. He/she shall also have charge of the municipal pound and supervision of the public weigher/sher and measurer (§9-9-21).

9-9-21. Public safety commissioner's area of responsibility in five-commissioner municipality. In a municipality governed by a board consisting of five members, the public safety commissioner shall supervise the enforcement of all police regulations of the municipality and general supervision of the police and fire departments and their officers and employees. The public safety commissioner shall supervise employees and all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in the month following the election each year. The public safety commissioner shall have charge of all apparatus and personal property used by these departments. The public safety commissioner shall also have charge of the municipal pound and supervision of the public weigher/sher and measurer.

Source: SDC 1939, § 45.0806 (2); SL 1991, ch 69, § 2; SL 2000, ch 35, § 1.

The Public Works Commissioner

The commissioner of public works shall have under his/he/sher supervision the streets, alleys, public grounds, and improvements thereof, and all public property, except as otherwise specially provided, and shall maintain such in a clean and sanitary condition, and the enforcement of all contracts, rules, and regulations necessary to these ends and all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in the month of May each year (§9-9-22).

9-9-22. Public works commissioner's area of responsibility in five-commissioner municipality. In a municipality governed by a board consisting of five members, the commissioner of public works shall supervise the streets, alleys, public grounds, and improvements thereof, and all public property, except as otherwise specially provided, and shall maintain such in a clean and sanitary condition, and the enforcement of all contracts, rules, and regulations necessary. The public works commissioner shall supervise all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in the month following the election each year.

Source: SDC 1939, § 45.0806 (3); SL 1991, ch 69, § 3; SL 2000, ch 35, § 2

The Finance and Revenue Commissioner

In a municipality with a five-member board, the commissioner of finance and revenue shall have under his/he/sher supervision enforcement of all laws for the assessment and collection of taxes of every kind and collection of all revenues belonging to the municipality from whatever source the same may be derived. He/she shall examine into and keep the board informed as to the finances of the municipality and as to its assets and property. He/she shall also supervise all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in May each year (§9-9-24).

§9-9-24. Finance and revenue commissioner's area of responsibility in five-commissioner municipality. In a municipality governed by a board consisting of five members, the commissioner of finance and revenue shall enforce all laws for the assessment and collection of taxes of every kind and collection of all revenues belonging to the municipality from whatever source derived. The finance and revenue commissioner shall examine into and keep the board informed on the finances of the municipality and its assets and property. The finance and revenue commissioner shall also supervise all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in the month following the election each year.

Source: SDC 1939, § 45.0806 (5); SL 1991, ch 69, § 5; SL 2000, ch 35, § 4.

The Utilities Commissioner

The utilities commissioner shall have under his/he/her supervision the construction, maintenance, and operation of the waterworks and sewerage departments of the municipality and all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in May each year. The utilities commissioner shall see to the enforcement of all regulations with respect to that department and its revenue (§9-9-23).

§9-9-23. Utilities commissioner's area of responsibility in five-commissioner municipality. In a municipality governed by a board consisting of five members, the utilities commissioner shall supervise the construction, maintenance, and operation of the waterworks and sewerage departments of the municipality. The utilities commissioner shall supervise all other departments assigned or apportioned by resolution of the governing board, adopted by a majority thereof at the first meeting of the board in the month following the election each year. The utilities commissioner shall enforce all regulations with respect to that department and its revenue.

Source: SDC 1939, § 45.0806 (4); SL 1991, ch 69, § 4; SL 2000, ch 35, § 3.

Meetings

The board shall meet at least once every week or as otherwise determined by ordinance in regular meeting at such time as shall be fixed by the board, at the city hall or other designated place, to consider, take under advisement, and act upon such business as may come before it (§9-9-11). All sessions of the board shall be open to the public. It shall keep a journal of its proceedings (§9-9-13). The yeas and nays shall be taken upon the passage of all ordinances and upon any proposals to create a liability against the municipality or for the expenditure or appropriation of its money, and in all other cases at the request of any member, and shall be entered on the journal of its proceedings (§9-9-16). **The concurrence of a majority of all the members of the board of commissioners shall be necessary to the passage of any such ordinance or proposal. However, the two-thirds vote of all the commissioners elected is required to sell any city real property (§9-9-17).**

Special meetings may be called by the mayor or by any two commissioners at any time, to consider only such matters as shall be mentioned in the call for such meeting by written notice thereof given to each member of the board (§9-9-12)

No final action shall be taken in any matter concerning the special department of any absent commissioner unless such business has been made the special order of the day, or such action is taken at a regular meeting of the board (§9-9-15).

No official may participate in discussing or vote on any issue in which they have a direct pecuniary interest (§6-1-17).

These are our roles and responsibilities outlined in South Dakota Codified Law regarding our positions and appointments in Municipalities. To recapture and simplify.

Mayor: Shall be the chief executive officer of the municipality, and shall have general supervision over all departments and officers.

Public Safety Commissioner: Supervises the Department he/shead of the police Department.

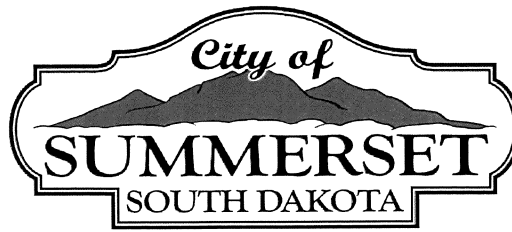
Public Works Commissioner: Supervises the department he/shead of Public Works or any contracts supporting public works.

Finance and Revenue Commissioner: Supervises the Finance Officer or Finance Staff in the absence of the Finance officer.

Utilities Commissioner: Supervises the Operator of the Water Treatment Facility.

All hiring and administrative change within departments is done at the approval of the Commission. Any corrective action needed for staff falling under the perspective commissioned department shall be discussed and decided by a quorum of commissioners in executive session.

7055 Leisure Lane
Summerset, SD 57718
P - 605-718-9858



cityinfo@summerset.us
www.summerset.us

CITY COMMISSION INFORMATION

Commission Meetings are the first and third Thursday of each month per City Ordinance.

The Mayor or two Commissioners may request a Special Meeting. Please make your request by email to the Mayor.

All Agendas must be posted 24 hours in advance per state statute. However, they are often posted prior to the required time period.

Agenda Packets are ready no later than Wednesday afternoon. They will be emailed to your city email and a printed copy of the agenda will be at your commission seat.

All items that a Commissioner would like to be placed on the agenda and/or for executive session, will need to be requested via email to the Mayor and City Administrator by Monday 4:00 pm prior to the scheduled Commission meeting. All items requested to be discussed after that time will be placed on the agenda for the next Commission meeting.

The Mayor and Commissioners will provide a monthly report of their service to the community, including meetings attended, interactions with city staff and officials, interactions with Summerset citizens, and any other event, activity, or action that involves the City of Summerset. The report focuses only on the Commissioners interaction in the previous month and does not include the ongoing of the department that they are the Commissioner for. Monthly reports are due to the City Administrator by Monday 4:00 pm prior to first scheduled Commission meeting of the month.

The office staff, including the City Administrator, the Finance Officer, and the Assistant Finance Officer, strive to provide the information in your agenda packets to assist you in making wise and prudent decisions for the City of Summerset. It is an expectation that each Commissioner and the Mayor will review all of the information in the agenda packet prior to the Commission meeting.

Items added to the agenda during the meeting are only for discussion purposes. No vote or decision may be made, as public notice of the topic has not been posted. - is this legally accurate

The Mayor and each Commissioner has one vote. The Mayor does not have veto power.

Three members of the Commission constitute a quorum. Be aware that unless an official meeting has been posted, it is a violation of state statute open meeting law for three members to assemble together.

Claims are available for review prior to the meeting and are in your agenda packet. If you have have questions regarding the claims, you may ask the Finance Officer prior to or during the scheduled Commission meeting.

Per state statute meeting minutes must document all motions. Discussions are not required to be recorded in the minutes. As a public courtesy, zoom meetings have been added for citizens that are not able to attend in person meetings. Facebook live has also been used to allow citizens to watch the meeting at a later time.

The City may have Executive Sessions during its meetings for the purposes of discussing legal, personnel, or economic development issues. Executive Session may be called anytime during the meeting if approved by motion.

Each member should regard the high level of confidentiality of the agenda packets and Executive Session discussions. Please be aware that some information is not for public knowledge until specific motions have been made in the Regular Session. Sharing this information even with a close friend or family member may jeopardize negotiations for the City. State statutes are specific regarding this confidentiality. (add statute)

If you will be out of town on vacation or extended periods of time, please notify the Mayor, who will then act as the head of your department until your return.

You will receive a cell phone stipend of \$50.00 per month. In exchange, you should be available for City staff, officials, (subcontractors or residents - not sure about this) to contact you regarding City issues. Please respond in as timely a manner as possible.

2021 Elected Officials' Orientation Packet

Commission Form

Provided as a service of the

SOUTH DAKOTA MUNICIPAL LEAGUE

*208 Island Drive
Ft. Pierre, South Dakota 57532
1-800-658-3633*

*yvonne@sdmunicipalleague.org (Executive Director)
martinec@sdmunicipalleague.org (Research and Training)
emilie@sdmunicipalleague.org (Marketing and Communications)
sandi@sdmunicipalleague.org (Risk Sharing Services)
lori@sdmunicipalleague.org (Finance Director)
carla@sdmunicipalleague.org (Accounting Assistant)
lisa@sdmunicipalleague.org (Office Manager)
dpfeifle.sdpaa@sdmunicipalleague.org (SD Public Assurance Alliance, Executive Director)*

What is the South Dakota Municipal League?

You are receiving this packet of information from the South Dakota Municipal League. Your city or town has joined nearly all of the other cities and towns in South Dakota as a member of the Municipal League. That membership means that the staff of the Municipal League works for you and your municipality. Just as we provided this information to you, we hope to provide you with other services as you become more familiar with us.

Probably our most-used services are our toll-free line, e-mail list serves, and website. Anytime you have any questions about municipal government, give us a call or check us out on line. We will do our best to find you an answer. Our contact information is:

1-800-658-3633 or www.sdmunicipalleague.org

We also offer several informational meetings, training workshops, and schools each year.

District Meetings are held in the ten Municipal League districts throughout the state. These meetings come to a town near you in March and April each year, and provide an update on the changes made by the Legislature.

Finance Officers' School provides training to the people responsible for keeping your municipality's accounting system working and the fiscal picture healthy. This is held in June each year.

Elected Officials Workshop offers a one-day seminar for newly elected people and for elected people who want to brush up on the basics. Topics include public meeting laws, ordinances and resolutions, municipal liquor laws, municipal officials and employees, bids and contracts, revenue sources, and budgeting. This is held in July of each year.

Annual Conference is where much of the most important work of the Municipal League is taken care of. In addition to informational and training seminars, our affiliate groups meet, the officers of the Municipal League Board of Directors are elected, and the annual legislative policy is adopted. The Annual Conference is held each year in October.

Municipal Government Day at the Legislature, held in February each year, is your chance to come to Pierre and meet with your legislators on the pressing municipal issues of the day.

Welcome to the South Dakota Municipal League.
Please call or e-mail any time we can be of assistance.

yvonne@sdmunicipalleague.org (Executive Director)
martinec@sdmunicipalleague.org (Research and Training)
emilie@sdmunicipalleague.org (Marketing and Communications)
sandi@sdmunicipalleague.org (Risk Sharing Services)
lori@sdmunicipalleague.org (Finance Director)
carla@sdmunicipalleague.org (Accounting Assistant)
lisa@sdmunicipalleague.org (Office Manager)
dpfeifle.sdpa@sdmunicipalleague.org (SD Public Assurance Alliance, Executive Director)

OVERVIEW OF MUNICIPAL GOVERNMENT IN SOUTH DAKOTA

There are 309 incorporated municipalities in South Dakota. They are grouped according to two different factors: Population and form of government.

POPULATION:

There are three classes of municipalities:

First Class: Those with populations of 5,000 or over. There are 17 first class municipalities;

Second Class: Those with populations between 500 and 5,000. There are 98 second class municipalities;

Third Class: Those with populations of 500 or less. There are 194 third class municipalities.

There are some cases where the size of the municipality determines what it may or may not do, but generally laws governing municipal government apply to all municipalities, regardless of size.

FORM OF GOVERNMENT:

There are five forms of government in South Dakota. Your packet includes the details for your municipality's form, but all five are briefly outlined here:

Trustee Form: Between three and five board members are elected at-large for three year terms. The Trustees elect one of their own members to serve as the president of the board for a one year term. There are 159 Trustee Municipalities in South Dakota.

Aldermanic Form: These municipalities are governed by a common council, which consists of a mayor who is elected at-large and two aldermen from each ward. Terms of office are traditionally two years, but may be set by ordinance for up to five years. There are 128 Aldermanic Municipalities in South Dakota.

Commissioner Form: The board of commissioners consists of a mayor and two or four commissioners who are all elected at-large. The terms of office are determined by ordinance, but may not exceed five years. There are 12 Commissioner Municipalities in South Dakota.

City Manager Form: These municipalities are either aldermanic or commissioner form, but employ a city manager. In the Aldermanic Form with a City Manager, the mayor and alderman are elected in the same manner as described above. There are three municipalities in South Dakota using this form of government: Brookings, Sturgis and Vermillion. In Commissioner Form municipalities that employ a city manager, the number of commissioners is nine, each elected for a three-year term. There are five municipalities in South Dakota using this form of government: Aberdeen, Brookings, Sturgis, Vermillion and Yankton.

Home Rule: There are ten municipalities which have adopted a home rule charter: Aberdeen, Beresford, Brookings, Elk Point, Faith, Fort Pierre, Pierre, Sioux Falls, Springfield, Vermillion, and Watertown. A home rule charter must be adopted by a majority vote of the electors of the municipality. Article IX of the South Dakota Constitution states, "A chartered governmental unit may exercise any legislative power or perform any function not denied by its charter, the Constitution or the general laws of the state. The charter may provide for any form of executive, legislative and administrative structure that shall be of superior authority to statute, provided that the legislative body so established be chosen by popular election and that the administrative procedures be subject to judicial review. Powers and functions of home rule units shall be construed liberally."

COMMISSIONER FORM OF GOVERNMENT

Composition and Qualification

Under the commission form, where a city manager is not employed, the board of commissioners shall consist of the mayor and two or four commissioners elected at large. (SDCL 9-9-1) The commissioners must be citizens of the United States and residents and voters of the municipality. (SDCL 9-9-2)

Terms of Office

The term of office of the members of the board may not exceed five years as determined by ordinance. (SDCL 9-9-3)

Vacancies

If the mayor or a commissioner resigns, the resignation shall be submitted in writing to the board. If the mayor or a commissioner moves his or her permanent residence outside the corporate limits of the municipality the office is immediately vacated. A vacancy on the board is filled by appointment as provided in SDCL 9-13-14.1 or by special election pursuant to SDCL 9-13-14.2. (SDCL 9-9-6; See Hdbk. Sec. 5.385; Sec. 5.350)

If the office of mayor is vacated, the board of commissioners shall appoint by a majority vote one of its commissioners as acting mayor. The acting mayor has all the powers and duties of the mayor until the election of a mayor at the next annual election or by special election pursuant to SDCL 9-13-14.2. The acting mayor has only one vote as a commissioner and may not vote as acting mayor. (SDCL 9-9-6; 9-9-8)

If the mayor is unable to perform the duties of office by reason of absence or sickness, the board shall appoint by a majority vote one of its members to act as mayor. The appointed commissioner's official designation shall be 'acting president of the board of commissioners.' The acting president is invested with all the powers and duties of the mayor during the mayor's absence or sickness but has only one vote as a commissioner and may not vote as acting mayor. (SDCL 9-9-8)

A vacancy is created if no one, including an incumbent, files a petition. The vacancy shall be filled by special election or appointment. (SDCL 9-13-14.1; 9-13-14.2; 9-13-14.3)

Three Commissioner Municipalities

In a three-commissioner city, the mayor is the chief executive officer of the municipality, shall preside over all meetings of the board, and has general supervision over all departments and officers. In the absence or inability of a commissioner, the mayor shall temporarily take charge. (SDCL 9-9-26) All matters not designated to the mayor are to be divided as evenly as practicable between the other two commissioners by resolution adopted by a majority vote at the first meeting of the board in the month following the election in each year. (SDCL 9-9-27)

Five Commissioner Municipalities

In a five-commissioner city, the commissioners shall designate by a majority vote a Commissioner of Public Safety, a Commissioner of Public Works, a Commissioner of Utilities, and a Commissioner of Finance and Revenue, with each commissioner having oversight in each respective area as described by law. (SDCL 9-9-18 to 9-9-24)

The mayor's responsibility is to be the chief executive of the municipality. The mayor presides at all meetings of the board and has the power in the absence or inability of a commissioner to temporarily take charge of the department under the control of the absent commissioner. The mayor is charged with the responsibility to supervise all public buildings, and all city parks except in municipalities having a park board, and for the lighting of the streets, alleys, and public buildings, and to enforce all the laws of the municipality, and must from time to time recommend measures which the mayor deems expedient to the operations of the municipality. (SDCL 9-9-20)

The Commissioners (Five-Commissioner Form)

The Commissioner of Public Safety

The commissioner of public safety shall supervise the police and fire departments and of the departments' officers and employees. The commissioner of public safety is also in charge of animal control within the municipality, including animal impoundments and shelter. (SDCL 9-9-21)

The Public Works Commissioner

The commissioner of public works shall supervise the streets, alleys, public grounds, and municipal improvements, and all public property, except as otherwise specially provided. The commissioner shall maintain the property in a clean and sanitary condition, and enforce all contracts, rules, and regulations necessary. (SDCL 9-9-22)

The Commissioner of Finance and Revenue

In a municipality with a five-member board, the commissioner of finance and revenue shall enforce all laws for the assessment and collection of taxes of every kind and collection of all revenues belonging to the municipality from whatever source the same may be derived. The commissioner of finance and revenue shall examine into and keep the board informed as to the finances of the municipality and as to its assets and property (SDCL 9-9-24)

The Commissioner of Utilities

The utilities commissioner shall supervise the construction, maintenance, and operation of the waterworks, sewerage, and any other utility departments of the municipality. The commissioner of utilities shall enforce all regulations with respect to that department and its revenue. (SDCL 9-9-23)

Meetings

The board of commissioners is required to meet at least once each week or as otherwise determined by ordinance. (SDCL 9-9-11) A majority of the board constitutes a quorum to do business. If a seat on the board is vacant due to removal, resignation, death, or by operation of law, the quorum consists of the majority of the remaining commissioners who are qualified to serve. The board may compel the attendance of any absentee under penalties as prescribed by ordinance. No action of the board is effective unless approved by a vote of a majority of the board. (SDCL 9-9-14)

A special meeting may be called at any time by the mayor or upon the request of two commissioners to consider only the matter mentioned in the call for the meeting. Notice of a special meeting must be given pursuant to SDCL 1-25-1.1 and shall be provided to each commissioner. (SDCL 9-9-12)

Each meeting of the board is open to the public and the board shall keep of journal of its proceedings. (SDCL 9-9-13)

No official may participate in discussing or vote on any issue in which they have a direct pecuniary interest. (SDCL 6-1-17; See Hdbk. Sec. 13.125)

The board shall determine the board's rules of procedure and may punish the board's members for disorderly conduct. The board may, by resolution, establish requirements for attendance at regular meetings and provide for the expulsion of a member in violation of the attendance requirements. (SDCL 9-9-14.1)

MUNICIPAL POWERS

Municipalities have many powers listed in South Dakota law. The following are some of the more general and commonly used powers. There are many, many more powers and conditions than those listed here. For more details, refer to the *SDML Handbook for South Dakota Municipal Officials* and to South Dakota Codified Laws.

It is extremely important to keep in mind that although a municipality has many powers, there are almost always conditions and restrictions on the use of those powers. While this section will present a broad overview of powers a municipality may have, a much longer format would be needed to determine the legal use of these powers.

Municipal government is primarily governed by the provisions of Title 9 of South Dakota Codified Law, but several other chapters of law apply to municipalities.

Powers of Finance

1. Every municipality may control its finances and property; levy and collect taxes for general and special purposes on real property within the limits allowed by law; appropriate money for authorized purposes and provide for the payment of the debts and expenses of the municipality (SDCL 9-12-2).
2. All municipalities are allowed to levy a number of special assessments (SDCL 9-21-15; 9-41-3; 9-21-17; 9-43-76).
3. Every municipality has the power to borrow money for authorized purposes within the constitutional limitations for municipal indebtedness and to issue its bonds under specified conditions, and after proper authorization (SDCL 6-8B).

Powers as a Legal Corporation

1. Every municipality has the power to sue and be sued (SDCL 9-12-1).
2. Every municipality is authorized to acquire by lease, purchase, gift, condemnation or other lawful means, real and personal property, easements, and rights of way within or without its corporate limits (SDCL 9-12-1).
3. Municipalities may lease, sell, give and convey any personal or real property of the municipality, by resolution of the governing body, to the state or any public corporation to be used for any authorized public purpose (SDCL 9-12-5).
4. Municipalities may sell, trade, destroy, or otherwise dispose of any land, structures, supplies, equipment, or other property which the governing board has, by appropriate motion, determined is no longer necessary, useful, or suitable for the purpose for which it was acquired (SDCL 6-13-1). The procedures for disposing of surplus property are outlined in SDCL 6-13.

Power to Maintain Facilities

1. Every municipality has the power to construct, operate, and maintain an auditorium and all necessary public buildings (SDCL 9-12-1).
2. Every municipality has the power to establish, maintain, and regulate its own jail or to use the county jail if the board of county commissioners gives its consent (SDCL 9-29-24).
3. Every municipality has the power to construct, operate, and maintain any light, heat, and power facilities; to purchase electric current from outside the municipality; and to sell municipally generated electric current and maintain transmission lines for such purposes outside the municipality (SDCL 9-39-1). Any municipal corporation may enter into an agreement with other governmental units for the joint or cooperative use of electrical facilities or any other joint project, which is within the scope of the municipal corporation (SDCL 9-39-2).
4. Every municipality has the power to construct, acquire, operate, maintain, and regulate a system of waterworks and other necessary facilities, to dispose of surplus water to districts, subdivisions, and areas outside the municipality, and to assess, levy, and collect taxes and special assessments for such purposes, and may appropriate funds and levy taxes to accumulate funds for such purposes (SDCL 9-47-1).

5. Every municipality has the power to acquire, establish, construct and maintain main, trunk, sanitary, storm, and service sewers and septic or sewage treatment plants, drains, and manholes; and to establish tension or connection of the main sewer to all benefited property within the sewer district (SDCL 9-48-2).
6. Every municipality can establish, improve, maintain, and regulate public parks, public squares, parkways, boulevards, swimming pools, and other facilities (SDCL 9-38-1).
7. Every municipality can exercise powers as to airports and landing fields for aircraft as provided in Title 50 (SDCL 9-12-14).
8. Every municipality can establish and maintain a municipal library subject to the provision in chapter 14-2 (SDCL 9-12-15).
9. Every municipality has power to establish, maintain, and operate golf courses, tennis courts, ball grounds, and other athletic amusements, and necessary facilities as a part of its park system, and charge fees for their use. All fees and any other money received for use of the board including tax revenues appropriated for park purposes, shall be kept in a special park fund and shall be paid upon requisition by the president and secretary of the board and warrant drawn and executed as other warrants (SDCL 9-38-6).
10. Every municipality has power to install and regulate parking meters on municipal streets and properties, to collect regulatory parking fees, and to use the proceeds for traffic regulation and other traffic-connected purposes (SDCL 9-31-5).
11. Every municipality has the power to acquire, improve, equip, operate, maintain, and regulate parking lots and areas for the off-street parking of vehicles, to fix and collect parking fees for this service, to issue its revenue bonds for such purposes payable solely from the parking lot and on-street and off-street parking meter revenues, and to issue its general obligation bonds for payment as authorized by statute (SDCL 9-51-5).
12. Every municipality has the power to collect, dispose of, and regulate the manner of handling garbage and other waste material (SDCL 9-32-10; 9-32-11).
13. Every municipality can enter into contracts for the furnishing of fire-fighting equipment and protection for the municipality (SDCL 34-31-4).

Power to Adopt Ordinances

1. Every municipality has the power to enact, make, amend, revise, or repeal all ordinances, resolutions, and regulations which are proper and necessary for the powers granted, and provide for the punishment of each violation by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days or by both (SDCL 9-19-3).

Police Powers

1. Every municipality has the power to regulate the municipal police and to pass and enforce all necessary police ordinances (SDCL 9-29-2).
2. Every municipality has the power to exercise jurisdiction for authorized purposes over all municipal territory, whether within or without its corporate limits, for the purpose of promoting the health, safety, morals, and general welfare of the community. The territorial jurisdiction is within one mile of the corporate limits or of any public ground or park belonging to the municipality outside the corporate limits (SDCL 9-29-1).
3. Every municipality has the power to preserve the peace, to prevent disorderly conduct, and to prevent and suppress riots, affrays, noises, disturbances, and disorderly assemblies (SDCL 9-29-3).
4. Every municipality has the power to regulate the practice of begging (SDCL 9-29-10).
5. Every municipality may prohibit or regulate the transaction of business in alcoholic beverages and the use and consumption of alcoholic beverages. South Dakota Codified Law Chapter 35 contains the legal provision regarding alcoholic beverages.

6. Every municipality may regulate the use of motor vehicles, bicycles, house cars, house trailers, trailer coaches, traction engines, tractors and road rollers (SDCL 9-31-1). Every municipality has the power to regulate traffic and sales upon the streets, sidewalks, and in public places (SDCL 9-30-4). Every municipality has the power to regulate and prohibit the use of streets, sidewalks, and public grounds for signs, sign posts, awnings, flying of flags or banners, posting bills and advertisements, the exhibition or carrying of banners, placards, or advertisements, and the distribution of handbills (SDCL 9-30-3). Every municipality has the power to regulate the use of sidewalks, streets, alleys, wharfs, parks, and public places with regard to usage and maintenance (SDCL 9-30-2). Every municipality has the power to designate and require the use of routes of travel of municipal streets and highways for commercial motor carriers, trucks, and busses; However, the provision for permission to deviate from the designated routes to reach a necessary destination must be authorized (SDCL 9-31-2).
7. Every municipality has the power to require the owner of abutting property to remove ice, snow, and refuse from sidewalks, and weeds from parking areas, and to provide for their removal and payment by special assessment against the property involved (SDCL 9-30-5).
8. Every municipality can declare what constitutes a nuisance and prevent, abate, and remove the same. A municipality may obtain a judgment through civil action against the owner or occupant of the real property on which a public nuisance has occurred for the cost of abating a public nuisance (SDCL 9-29-13; 21-10-6).
9. Every municipality has the power to prevent the pollution or injury to any public water supply within one mile of the municipal limits (SDCL 9-32-8; 9-32-10).
10. Every municipality has the power to regulate or prohibit the running at large of dogs, animals, and poultry, to establish pounds, appoint pound-masters, regulate the impounding of animals, to impose a tax or license on dogs running at large and to prohibit and punish cruelty to animals (SDCL 9-29-12; 9-29-11).
11. Every municipality has the power to provide for the regulation and inspection of amusement places. Proper aisles and exits for escape from amusement places in the case of fire may be required (SDCL 9-33-7). Every municipality has the power to prescribe the fire limits with respect to the erection or repair of wooden buildings, and to provide that building damaged to the extent of fifty per cent of their value must be removed (SDCL 9-33-2). Every municipality has the power to authorize officers to examine all types of buildings during reasonable hours to ascertain whether such are in dangerous condition, and to provide for remedying such conditions (SDCL 9-33-6). Every municipality has the power to prescribe the manner of constructing buildings, and to require and regulate the construction of fire escapes (SDCL 9-33-4). Every municipality has the power to prevent and provide for remedying any dangerous construction, equipment, or manufacturing process, and to prevent the depositing of ashes or refuse in unsafe places. All such places may be required to be kept in a safe condition (SDCL 9-33-9, 9-33-10). Every municipality has the power to regulate the construction, installation, and inspection of electrical wiring and appliances, as well as gas piping, fittings, and appliances. Municipalities can also provide that fees may be collected for such inspection. The exercise of these powers, however, does not affect the liability of any public utility furnishing gas or electricity (SDCL 9-33-5).
12. Every municipality has the power to authorize a 911 Emergency Reporting System (SDCL ch. 34-35).

Power to License and Regulate

1. Every municipality has the power to fix the amount, terms, and manner of issuing and revoking licenses (SDCL 9-34-1).
2. Every municipality has the power to tax, license, and regulate secondhand and junk stores (SDCL 9-34-9); auctioneers, auction stores, transient merchants, gift enterprises, and similar businesses (SDCL 9-34-7); dray men, parcel delivery men, bus drivers, cab men, taxi drivers, porters, express men, and others pursuing like occupations (SDCL 9-34-10). Every municipality has the power to provide for the licensing and numbering of motor drays, motor delivery wagons, motor tractors, and motor trucks (SDCL 9-34-11). Every municipality has the power to license, tax, regulate, or prohibit palmists, clairvoyants, phrenologists, mind readers, fortune tellers, and fakirs (SDCL 9-34-16); pool and billiard halls and bowling alleys (SDCL 9-34-14); hawkers, peddlers, pawn brokers, ticket scalpers, and employment agencies (SDCL 9-34-8).

3. Every municipality has the power to license, tax, and regulate exhibitions, shows, and amusements (SDCL 9-34-13). Every municipality has the power to license, tax, regulate, or prohibit public dances, public dance halls, and skating rinks (SDCL 9-34-15).
4. Every municipality has the power to regulate and provide for the lighting of streets, laying of gas pipes, erection of lamp posts, and electric towers; to fix and determine the price, and to regulate the sale, use, and service connections of gas, electric light, and power services; to regulate or prohibit the installation of utility equipment within the municipality; and to grant the rights and franchises for such purposes and to regulate them (SDCL 9-35-1). Every municipality has the power to regulate openings in streets or alleys for utility installations (SDCL 9-30-1). Every municipality has the power to regulate and provide for the laying of water and sewer connections to the lot line and to assess the costs as special assessments (AGR 1965-66, pp. 26, 27; AGR November 25, 1964). Every municipality has the power to regulate and supervise the construction, repair, and use of vaults, cisterns, hydrants, pumps, sewers, and gutters (SDCL 9-32-9). Every municipality has the power to provide for the specification of improvements, openings, and connections with regard to viaducts, street lighting equipment, and the grade of roads, streets, alleys, sidewalks, and public grounds (SDCL 9-45-1). Every municipality has the power to provide for, and regulate, crosswalks, curbs, gutters, and drains (SDCL 9-45-5).
5. Every municipality has the power to examine and require health certificates for persons who conduct or operate eating and drinking places, and for those who operate any retail or wholesale business where food and drinkable products are prepared or offered for sale to the public (SDCL 9-32-4). Every municipality has the power to regulate the practice of tattooing, and body piercing (SDCL 9-34-17; 34-1-17). Every municipality has the power to regulate day care centers (SDCL 9-29-2).
6. Every municipality has the power to license, regulate, and prescribe just and reasonable rates and charges, fix the travel routes, speed, and point for stops of all motor carriers of passengers, operators of taxicabs, and motor buses operating in such municipality or in a zone adjacent thereto not part of another municipality and not to exceed two miles around the municipal boundaries. If such transportation service is rendered between adjoining municipalities, the governing body of each municipality may fix the rates and charges for intercity service by concurrent action (SDCL 9-35-11). Transportation network companies may also be regulated (SDCL 32-40-23)
7. Every municipality has the power to name and change the name of any street, avenue, alley, or other public place and to regulate the numbering of houses and lots (SDCL 9-45-2).

Joint Exercise of Governmental Powers

Municipalities, counties, townships, school districts, water conservancy sub-districts, and drainage districts can jointly exercise any power, privilege, or authority except the power to tax with any other public agency of the state (SDCL 1-24-2).

To enter into joint action or cooperation, appropriate action must be taken in the form of resolution, ordinance or other means pursuant to the law by all parties involved (SDCL 1-24-3). The agreement must specify the following:

1. The duration of the joint action;
2. The precise organization, composition, and nature of any separate legal or administrative entity created by the agreement;
3. The purpose of the agreement;
4. The manner of financing the joint action as well as establishing and maintaining a budget for the joint action;
5. The permissible method or methods to be used in accomplishing the partial or complete termination of the agreement;
6. Any other necessary and proper matter (SDCL 1-24-4).

The agreements do not relieve any public agency from any obligation or responsibility imposed upon the public agency by law (SDCL 1-24-9).

Two or more political subdivisions may establish a joint entity for economic development purposes or to provide greater efficiency or improved services among the participating political subdivisions. Such joint agencies may not levy taxes, but may borrow funds to finance the purchase of property or the construction of facilities. The joint entity's governing body must be comprised of elected officials from the participating governing bodies and all financing decisions will require more than a 60% vote of the governing body's members (SDCL 1-24-19).

ORDINANCES AND RESOLUTIONS

Municipalities may enact, make, amend, revise, or repeal all such ordinances, resolutions, and regulations as may be proper and necessary to carry into effect the powers granted thereto (SDCL 9-19-3).

The word "ordinance" means a permanent legislative act within the limits of its powers of the governing body of a municipality (SDCL 9-19-1).

A resolution, on the other hand, means any determination, decision, or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating, effecting, or carrying out its administrative duties and functions (SDCL 9-19-1). In the case of State ex rel. Wagner v. Summers, 33 S.D. 40, 54, 144 N.W. 730, 734 (1913) the Court ruled that the terms "resolution" and "motion" are practically synonymous.

Ordinances must be in the following style:

"An ordinance _____ (insert title)

Be it ordained by the (city or town) of _____ (insert the name of the municipality) The substance of the ordinance follows (SDCL 9-19-6).

Ordinances can only have one subject, which must be expressed in its title (SDCL 9-19-5). The formalities of style, reading, publication, and the effective date of ordinances are not applicable to resolutions (City of Brookings v. Martinson, 1933, 61 SD 168, 246 NW 916).

Municipalities are authorized to provide for the punishment of each violation of an ordinance, resolution or regulation with a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days or by both such fine and imprisonment (SDCL 9-19-3).

All ordinances shall be read twice by title with at least five days between each reading. If passed, the ordinances shall be signed by the mayor or acting mayor or president of the board of trustees, and filed with the finance officer. With few exceptions, ordinances, after being signed and filed, must be published at least once in the official newspaper (SDCL 9-19-7). The vote on the second reading of all ordinances must be recorded and published (SDCL 9-19-9). If a substantive amendment is proposed at the second reading, the proposed ordinance as amended may not be considered for final action until at least five days after a duly noticed public hearing. (SDCL 9-19-7.1)

Resolutions differ from ordinances in that any resolution may be passed after only one reading. The resolution must be published at length either separately or in the minutes of the meeting. The votes for and against the resolution must also be published (SDCL 9-19-8).

Unless an ordinance or resolution is drawn to take effect immediately upon passage, all ordinances and resolutions become effective on the twentieth day after passage and publication, unless suspended by operation of a referendum (SDCL 9-19-13).

Voters have the right to propose their own ordinances through the initiative process, or to refer any legislative decision of the governing body through the referendum process. More information on these processes can be found in the *SDML Handbook for South Dakota Municipal Officials* or in SDCL 9-20.

OPEN MEETINGS LAWS

The open meeting law is contained in SDCL chapter 1-25. Municipalities are required to hold open meetings. (SDCL 1-25-1) This includes any association, authority, board, commission, committee, council, or task force which is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law. (SDCL 1-25-12)

An official meeting is defined as any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference. (SDCL 1-25-12)

Prior to any official meeting, a notice including the date, time, and location of the meeting, along with the proposed agenda must be posted in city hall in a place where it is visible, readable, and accessible to the public for at least an entire, continuous, twenty-four hours immediately preceding the meeting. This must also be posted on the municipality's website, if one exists. (SDCL 1-25-1.1)

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements have been met, nor if the members of a public body attend a press conference called by a representative of the public body. (SDCL 1-25-1)

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the political subdivision may post a public notice of a quorum, containing at a minimum the date, time, and location of the event, in lieu of an agenda. (SDCL 1-25-1)

The public body shall reserve at every regularly scheduled official meeting a period for public comment, limited at the public body's discretion, but not so limited as to provide for no public comment. At a minimum, public comment shall be allowed at regularly scheduled official meetings which are designated as regular meetings by statute, rule or ordinance. Public comment is not required at official meetings held solely for the purpose of an inauguration, swearing in of newly elected officials, or presentation of an annual report to the governing body regardless of whether or not such activity takes place at the time and place usually reserved for a regularly scheduled meeting. (SDCL 1-25-1)

When an entity is appointed by the governing body but does not meet the definition of an entity required to hold an open meeting, any report to the governing body must be given to the governing body in an open meeting. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body. (SDCL 1-27-1.18)

For special or rescheduled meetings, all bodies shall also comply with the public notice provisions of this section for regular meetings to the extent that circumstances permit. In addition, information in the notice must be given, in person, by mail, e-mail, or by telephone to members of the local news media who have requested notice. (SDCL 1-25-1.1)

No public body may prevent a person from recording through audio or video technology, an official meeting as long as the recording is reasonable, obvious, and not disruptive. This does not apply to meetings closed to the public pursuant to specific law. (SDCL 1-25-11)

Municipalities are authorized to hold executive or closed meetings for specific purposes. The reasons are:

1. The elected officials may discuss the qualifications, competence, performance, character or fitness of any officer or employee including prospective officers or employees. Contractors are not included in the term officer or employee.
2. Elected school officials may discuss the expulsion, suspension, discipline, assignment of or the educational program of a student;
3. The elected officials may consult with their attorney or receive communication from their attorney about proposed or pending law suits or contract problems.
4. The elected officials may prepare for labor negotiations with the municipality's employees.
5. The elected officials may discuss marketing or pricing strategies of a business owned by the municipality (electric, liquor, telephone, etc.) if public discussion may be harmful to the competitive position of the business. This includes utility boards.
6. Discussing information listed in SDCL 1-27-1.5(8) and 1-27-1.5(17) (in general, these are security-related items. (SDCL 1-25-2)

In addition, when a municipality, county or an economic development corporation receiving municipal funds is considering furnishing assistance to a business and has made or received material or data consisting of trade secrets or commercial or financial information regarding the operation of that business, such discussion or consideration may be done in executive session closed to the public. (SDCL 9-34-19)

In order to go into executive or closed meeting a majority vote of the governing body is required. The matters discussed during the executive or closed meeting are restricted to the purposes specified in the motion to go into executive or closed session. (SDCL 1-25-2)

No official actions (votes) may be taken in an executive or closed meeting. (SDCL 1-25-2)

A violation of the open meeting law is a Class 2 misdemeanor. If you have any questions about the law, please contact your city attorney. When in doubt, keep the meeting open.

OPEN RECORDS

The governing body of each municipality must publish the full accounts of its meetings. The publication is to appear in the official newspaper of the municipality, or if there is no official newspaper, any legal newspaper which serves the municipality. The proceedings must be published within twelve business days after each meeting (SDCL 9-18-1). The publication must include a detailed statement of all expenditures of money, showing the names of all persons who received payment as well as the service provided (SDCL 9-19-1). It is further required that the finance officer deliver a copy of the proceedings to be published in the official newspaper within five business days after the meeting (SDCL 9-18-1.1).

If a meeting is required to be open to the public, and if any printed material relating to an agenda item of the meeting is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at city hall at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. These requirements do not apply to materials exempt from disclosure or to printed material or records related to an agenda item of an executive or closed meeting (SDCL 1-27-1.16).

The law requires every municipal officer to keep a record of the official acts and proceedings of his office. These records must be open for public inspection during business hours under reasonable restrictions (SDCL 9-

18-2). Provisions for requesting records, allowable charges, procedures for denial of a record and procedure to appeal a denial are all spelled out in state law (SDCL 1-27-34 to 1-27-44).

Documentary material or data which consists of trade secrets or commercial or financial information made or received by a municipality or an economic development corporation receiving municipal funds for the purpose of furnishing assistance to a business is not a public record (SDCL 9-34-19).

Patient information identifying the patient's name, address, diagnosis, or treatment received by an ambulance is not a public record and is confidential (SDCL 34-11-5.1).

RULES OF ORDER

This is not a complete reference to cover every situation in a meeting. The intent is merely to present some of the basic principals involved in parliamentary procedure and municipal officials should be advised to have access to some manual on parliamentary procedure in order to answer particular questions as they arise during the meeting.

Fundamentally, under the rules of parliamentary procedure, a deliberative body is a free agent - free to do what it wants to do with the greatest measure of protection to itself and of consideration for the rights of its members.

Before examining the more important points of parliamentary procedure, it is necessary to establish a format for conducting the meeting. The customary order of business and an explanation of each area is as follows:

1) Call to Order

Since statute requires that no business can be conducted by a governing body unless a quorum is present, it would be useless to call the meeting to order without a quorum (SDCL 9-7-7, 9-8-8, and 9-9-14). These statutes define a quorum to be a majority of the members of the governing body irrespective of whether the governing body is the town board of trustees, the city council, or the city commission.

After determining if a quorum is present, and when it is time for the meeting to begin, the mayor, acting mayor or president of the board of trustees calls the meeting to order by saying, "The Council (Board or Commission) will come to order.

2) Calling the Roll

Statute requires the finance officer to record and publish the proceedings of the governing body (SDCL 9-14-17). The rules established by a governing body may require the finance officer to call the roll. The presiding officer begins the roll call by saying "The finance officer will call the roll." The finance officer then reads the names of the members in alphabetical order and records their absence or presence accordingly. It is customary to place the presiding officer at the end of the roll call. It is also customary for the finance officer to report the number of members present and absent in the following manner: "(Mr.)(Madam) Mayor (or (Mr.)(Madam) President) all members are present," or "(Mr.)(Madam) Mayor (or (Mr.)(Madam) President) there are ____ members present and ____ members absent."

3) Reading the Minutes

After the call to order and the roll call, the presiding officer then directs the finance officer to read the minutes of the last meeting by saying, "The finance officer will read the minutes of the last meeting." The minutes are then read. If there has been a special meeting of the governing body since the last preceding regular meeting, the finance officer should read the minutes of the last regular meeting and then read the minutes of the special meeting.

The presiding officer should then ask, "Are there any additions or corrections to the minutes?" If there are no additions or corrections, the presiding officer should then declare, "The minutes stand approved as read." If there are any additions or corrections, before proceeding any further, the presiding officer should ask, "Are there any further additions or corrections to the minutes." If there are no further additions or corrections, the presiding officer may then add, "The minutes stand approved as corrected." If there are any additions or corrections to the minutes, the auditor or clerk should note the corrections in the minutes for the current meeting.

The rules may provide that the finance officer furnish each member of the governing body with a copy of the minutes before the next regular meeting. If this is the case, then the minutes are usually not read and the presiding officer may simply request corrections to the minutes.

The minutes serve the function of being the permanent record of the proceedings of the governing body and are therefore, the source document concerning all business discussed and actions taken by the governing body. As such, the minutes should give a complete and objective account of what happened at a particular meeting. This does not ordinarily mean that actual discussion should be summarized and included in the minutes. It does mean that every main motion whether adopted or rejected should be recorded along with the name of the maker, the seconder, the results of any action and usually the members who voted in favor and the members who voted against the motion.

4) Committee Report - Reports of City Officers

If a municipality has any standing or special committees their reports or findings are usually presented after the minutes have been read and approved. The reports of the municipal officers and the various boards should also be presented at this time.

5) Notices and Communications

The petitions for initiated or referred ordinances are, as a matter of custom, presented after the reports of the city officers or boards. Also any memorials, proclamations or other communications, such as notice of pending civil action, should be presented at this time.

6) Presentation of Claims and Authorization of Warrant Issuance

Claims against the municipality, such as payments due on contracts or bonds or anything which in general constitutes an indebtedness of the municipality, should be presented before consideration of unfinished or new business as a matter of courtesy.

7) Unfinished Business

Since there are usually several items before a governing body which are held over from the previous meeting, it is customary to give consideration to these matters before introducing new business.

8) New Business

Ordinances and resolutions should be introduced and given consideration under new business at the initial reading of the ordinance or resolution. At subsequent meetings it would be permissible to continue discussion on the ordinance or resolution and treat it either as old or new business.

9) Adjournment

After considering all of the business before it, or in most instances the major share of it, the governing body adjourns the meeting.

There is nothing which requires the meeting to be conducted exactly in the manner prescribed above. The rules can be suspended and consideration can be given to an item on the agenda which does not follow according to the format which was presented here. In many instances circumstances will arise which necessitates giving

consideration to one item on the agenda before other items should be considered. However, discretion should be used when changing the order of business, and meetings should be conducted in generally the same form as presented above.

In many instances, the governing body will find it advisable to refer to a standard document on parliamentary procedures in order to determine the proper order of business and other matters relating to parliamentary procedure in general. Questions often arise as to whether or not for example, a motion is debatable, or requires a second, and which motions take "precedence" over other motions. In many cases, depending upon which standard rules, and even which edition of the same rules, on parliamentary procedure is used to govern the proceedings of the meeting, the answers to specific questions about certain motions, will vary. Should any problems arise concerning a particular motion, municipal officials should refer to the standard work on parliamentary procedure which has been accepted by the governing body.

However, there are some procedures which are accepted in all of the major works on parliamentary procedure. The steps to be followed in making most motions are followed with an explanation of each step.

THE MAKER

1) Addresses the Chair

The "chair" refers to the presiding officer of the meeting. The rules may require that a member, previous to speaking, shall rise. The member should address the chair as "Mr. Mayor (Mr. President)."

2) Waits for Recognition

3) Makes the Motion

Motions constitute a formal procedure for taking action. They are used in adopting or amending ordinances or resolutions. Usually motions are not required to be submitted in writing, but are written down for the record by the finance officer at the time the motion is made. Motions should be made in a form similar to "Mr. Mayor (Mr. President), I move that _____."

THE SECONDER

4) Seconds the Motion

Seconding the motion, when required, should be made in the following manner, "Mr. Mayor (Mr. President), I second the motion."

THE PRESIDING OFFICER

5) States the Motion

After a motion has been made and seconded, the presiding officer should restate the motion by saying, "It has been moved and seconded that _____."

6) Calls for Debate

The presiding officer should then, if the motion is debatable, ask if there "Are there any remarks?" or "The floor is now open for debate."

7) Calls for a Vote

After the discussion has ended, the presiding officer can call for a vote on the motion by saying, "The question is _____ (restate the motion) _____, all those in favor say 'aye', all opposed say 'nay'." The minutes shall record the names of each person voting 'aye' and each person voting 'nay'.

8) Takes the Vote

9) Declares the Result

Immediately after the vote is taken the presiding officer should declare the result by saying, "The ayes have it and the motion is carried," or "The nays have it and the motion is defeated."

FINANCES AND BUDGETING

The municipal fiscal year begins January first (SDCL 9-21-1). Except in the City Manager form of government, the finance officer is required to report to the governing body annually, on or before the first day of September, an estimate of the expenses of the municipality and the revenue necessary to be raised for the current year (SDCL 9-22-23).

In preparing the annual estimate of expenses, the finance officer may include in the budget a line item for contingencies. It cannot exceed five percent of the total budget. Expenses cannot be charged to this item, but by resolution, funds can be transferred out where needed (SDCL 9-21-6.1).

To aid the finance officer in preparing the annual report, the various boards and commissions (for example, the park or library board) are required to submit an annual report estimating the expenses to be incurred for the ensuing fiscal year.

Not later than the first regular meeting of the governing body in September, or within ten days thereafter, the annual appropriation ordinance for the ensuing year must be introduced. This ordinance is to appropriate such sums of money as may be deemed necessary to meet the lawful expenses and liabilities of the municipality (SDCL 9-21-2).

The appropriation ordinance must specify the function and sub-functions for which the appropriations are made and the amount appropriated for each (SDCL 9-21-2).

Neither the governing body nor any department can expend any sum in excess of the amount appropriated for any purpose within the department. An exception to this is that any funds made available by state, county, or federal grants after the final appropriation ordinance is adopted by the municipality may be expended without specific provision in the appropriations ordinance. However, the municipality must publish the purpose for the expenditure and to whom the expenditure was made (SDCL 9-21-9; 9-21-9.1).

The annual appropriation ordinance is also required to contain the annual tax levy, which cannot exceed the limitations established by law. The annual appropriation ordinance must "apportion among the various funds provided for there in the amount to be applied upon each fund. It shall also specify the amount levied to pay the interest on each outstanding bond issue, and the amount levied for the purpose of each sinking fund established to pay the principal of each series of bonds when matured" (SDCL 9-21-19).

Appropriation ordinances must be approved by a roll call vote and require a majority vote of the aldermen, trustees, or members of the board of commissioners. In the aldermanic form, the mayor may not break a tie on the appropriation ordinance. (SDCL 9-8-10; 9-7-7; 9-9-16) The mayor under the aldermanic form of government can veto any part or item of an appropriation ordinance. (SDCL 9-8-3; 9-19-10) Upon passage, the appropriation ordinance must be published in the same manner as all other ordinances.

Immediately upon passage and publication of the annual appropriation ordinance the finance officer must certify the tax levies therein made to the county auditor in the following form:

For general purposes: _____

For interest and debt service fund: _____ (SDCL 9-21-20).

All tax levies must be certified to the county auditor on or before the first day of October of each year (SDCL 10-12-7).

In the event that the annual appropriation ordinance does not provide sufficient revenues to enable the municipality to conduct the indispensable functions of government in any department or to discharge any duty which is the lawful duty of the municipality to discharge, the governing body can make, approve and adopt a supplemental appropriation ordinance. This supplemental appropriation ordinance must spell out in detail each item for which the appropriation is made and the amount. The adoption of a supplemental appropriation ordinance is governed by the same laws pertaining to the adoption of the annual appropriation ordinance (SDCL 9-21-7).

No other appropriations can be made except as provided in the annual appropriation ordinance or in supplemental appropriation ordinances (SDCL 9-21-8).

REVENUE SOURCES

The following is a brief list of the more common revenue sources available to municipalities. It is not a comprehensive list of every possible source of revenue.

- Property Taxes (South Dakota Codified Law, Title 10).
- Municipal Bonds (SDCL 6-8B; Title 9).
- Special Assessments. A special kind of tax which can be used to finance improvements (SDCL 9-43).
- County General Road Levy. Paid by the county to the municipality for bridge and street purposes within the municipality (SDCL 10-12-9(4)).
- County Highway and Bridge Reserve Fund. Twenty-five percent of the funds collected from within municipalities by the county from the special levy for the county highway and bridge reserve fund is returned to the municipalities for the purposes of matching federal aid grants. The reserve fund is earmarked for bridge and street purposes. A discretionary amount may be imposed by the board of county commissioners (SDCL 10-12-13, 10-12-14).
- Fire Insurance Taxation. Each fire department having not less than fifteen members and a pumper housed in a heated building, and having filed the proper forms with the state Department of Commerce and Regulation, is eligible to receive funds from the fire insurance premiums tax. The funds are sent from the state auditor to the county commissioners, who pro rate the funds according to population and assessed valuation to all fire departments servicing the county. The money is sent directly to the fire department, not to the municipality (SDCL 10-44-9.1, 10-44-9.2).
- Franchise Tax on Banks. The state retains 26 and 2/3 percent of this tax, then on or before February 1, the remainder is distributed to the respective county treasurers where the financial institutions which paid the tax are located. The county treasurers apportion and distribute the funds among the taxing subdivisions, including the county, by formula. Banks organized under SDCL 51-16-40, or "credit card banks," pay the same tax rate as other banks, but the state retains 95% of their taxes. The remaining 5% is distributed in the same manner as the rest of the bank franchise tax.
- Liquor Tax and Licenses. Twenty-five percent of all the revenues deposited in the liquor beverage fund shall revert to the municipalities. The share is paid to municipalities on a population ratio basis no later than the first of February, May, August and November (SDCL 35-5-22).
- Motor Vehicle License Fees. Five percent of the funds collected by the county for motor vehicle licenses are given to the municipalities in proportion to the total street mileage of each municipality as it bears to the total street mileage of all municipalities within the county (SDCL 32-11-4.1). In addition, fifty-four percent of all funds collected for motor vehicle licenses in each county shall be transmitted to the local government highway and bridge fund. Each county, municipality, and township will receive a portion of the fund for the purpose of constructing and maintaining highways, streets, and bridges on their highway and street systems. The money will be appropriated to the local government highway and bridge fund by the fifteenth of each January, May, July, and October (SDCL 32-11-4.1, 32-11-32 through 32-11-35).

- Wheel Tax. Municipalities and counties have the authority to impose by ordinance a wheel tax on all motor vehicles (SDCL 32-5-106 and 32-5A-1). The only practical way for municipalities to implement this tax would be for the municipality and county to enter into a joint powers agreement and have the tax collected when the state license plate fee is collected. County wheel tax must be distributed among the county, the municipalities, and the townships within the county (SDCL 32-5A-2).
- Video Lottery Machines. If a person holds an alcoholic beverage license and is issued a video lottery establishment license, the municipality issuing the alcohol license may charge a fee not to exceed \$50 per year per video lottery machine. The proceeds from the fee are to be deposited in the general fund. The fee is in addition to any alcoholic beverage licensing fee or video lottery establishment license fee. The municipality may not impose this additional fee on more than one license per location.
- Municipal Sales Tax. Any incorporated municipality may impose a municipal sales tax in accordance with the provisions of SDCL 10-52. This tax can be enacted by ordinance, and therefore is referable (SDCL 10-52-2, 10-52-3). Municipalities may enact or amend a municipal tax ordinance only twice a year. The effective date must fall on either January first or July first. The municipality must notify the Department of Revenue of the ordinance at least ninety days prior to the effective date. If the tax ordinance is referred, the effective date cannot be less than ninety days following voter approval (SDCL 10-52-9). Certain items must be exempted from the municipal sales tax. Please see the *SDML Handbook for South Dakota Municipal Officials*, South Dakota Codified Law SDCL 10-52, or call the Municipal League office for more details.

The first two cents of municipal sales tax may be used for any lawful purpose. Municipalities may also impose a one percent tax commonly called the “bed, booze, and board” tax. Money raised by this tax may only be used for land acquisition, architectural fees, construction costs, payments for civic center, auditorium or athletic facility buildings, including the maintenance, staffing and operation of such facilities and the promotion and advertising of the municipality.

- Municipal Excise Tax. Any municipality which has not enacted a municipal sales tax may impose an excise tax on contractors gross receipts at a rate not to exceed one-half percent (SDCL 10-46A-11, 10-46B-9).
- Municipal Motor Vehicle Fuel Tax. A second or third class municipality may levy a tax on the sale or use of motor and special fuel by motor vehicles operated upon public streets and highways. This tax may not exceed the rate of one percent per gallon (SDCL 10-52-2.2). A municipality may not impose both a municipal sales tax and a tax on fuel (SDCL 10-52-2.3).

BIDS AND CONTRACTS

Very specific laws regulate a municipality’s handling of bids. Many answers regarding bids and contracts can be found in Chapter 13 of the *SDML Handbook for South Dakota Municipal Officials*. The following information should provide you with a brief overview of the basics.

Required Bids

All contracts for the construction of public improvements which involve the expenditure of one-hundred thousand (\$100,000), and any other contracts for the purchase of supplies or services which involve the expenditure of twenty-five thousand dollars (\$25,000) must be advertised for bid and let to the lowest responsible bidder

(SDCL 5-18A-5; 5-18A-14).

Exemptions from Bidding (SDCL 5-18A-22)

- 1) Highway construction contracts entered into by the SD Department of Transportation;
- 2) Contracts for the purchase of supplies from the United States or its agencies;
- 3) Any purchase of supplies or services, other than professional services, by purchasing agencies from any active contract that has been awarded by any government entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited and awarded within the previous twelve months;
- 4) Equipment repair contracts;
- 5) Procurement of electric power, water, or natural gas; chemical and biological products;
- 6) Supplies, services, and professional services required for certain research projects under the control of the Board of Regents;
- 7) Property or liability insurance or performance bonds;
- 8) Supplies needed by the Department of Human Services or Department of Social Services or prison industries for the manufacturing of products;
- 9) Printing involving student activities conducted by student organizations and paid for out of student fees at institutions under control of the Board of Regents;
- 10) Purchase of surplus property from another purchasing agency;
- 11) Animals
- 12) Purchases by a school district of perishable food, raw materials used in construction or manufacture of products for resale, or for transportation of students;
- 13) Certain State Authorities;
- 14) Seeds, fertilizers and other products used in the operation of farms under control of the Board of Regents;
- 15) Supplies for any utility owned or operated by a municipality if the purchase does not exceed the limits found in SDCL 5-18A-14;
- 16) For political subdivisions, any contract for asbestos removal in emergency response actions;
- 17) Supplies or services from a contract established through a Midwestern Higher Education Compact group by competitive sealed bid or a competitive sealed proposal;
- 18) Any contract concerning the custody, management, purchase, sale and exchange of fund investments research by the State Investment Council or Division of Investment; or
- 19) For political subdivisions, including municipalities, any purchase of equipment involving the expenditure of less than \$50,000. (SDCL 5-18A-22)

A purchasing agency may make or authorize others to make an emergency purchase without advertising if rentals are not practicable and there exists a threat to public health, welfare, or safety or for other urgent and compelling reasons (SDCL 5-18A-8).

Advertisement for Bids

When a contract is in excess of the bid limits (SDCL 5-18A-14) is to be entered into, the governing body must advertise for bids in the official newspaper (SDCL 5-18A-5). They must advertise at least twice with the first publication at least ten days prior to the opening of bids or deadline for submission of proposals. The first publication shall be in the official newspaper of the purchasing agency and the second publication may be in any legal newspaper in the state. The advertisement must state the time and place where the bids will be opened or the deadline for submission of proposals. The advertisement must also state that the governing board has the right to reject any or all bids (SDCL 5-18A-14).

Accepting Bids

Unless all bids are rejected, the lowest responsible bid must be accepted (SDCL 5-18A-5).

Local Officials Interest in Contracts: State law prohibits local officials from becoming personally involved in contracts which the municipality they represent enters into except under specific circumstances (SDCL 6-1-17). Exceptions are found in SDCL 6-1-2.

LIQUOR LICENSING

Types of Licenses

There are essentially seven different types of licenses dealt with by municipalities:

- | | | |
|-------------|---|--|
| 1. Off-Sale | 4. Convention Center | 7. Wine and cider, both on- and off-sale |
| 2. On-Sale | 5. Full-Service Restaurant | |
| 3. Airport | 6. Malt Beverage and Farm Wine, both on- and off-sale | |

Number of Licenses

The maximum number of licenses a municipality can hold is determined by State law. No more than two off-sale licenses are permitted in a municipality of one thousand or less. An additional license can be added for every one thousand five hundred over the first thousand (SDCL 35-4-10). There can be no more than three on-sale licenses in municipalities of one thousand or less. Another license may be added for each additional one thousand five hundred over the first thousand (SDCL 35-4-11). There is no maximum number of malt beverage/farm wine or wine/cider licenses that may be issued (SDCL 35-4-11). There is also no limit on the number of full service restaurant licenses that may be issued, although certain other restrictions apply.

Times of Sale

No on-sale or off-sale establishments may sell, serve or allow to be consumed on the premises alcoholic beverages between the hours of two o'clock a.m. and seven o'clock a.m. However, any municipality may, by ordinance, prohibit the sale, service, and consumption of alcoholic beverages on Sundays, Christmas Day, or Memorial Day (SDCL 35-4-81; 35-4-81.2).

Municipally Owned Licenses

Municipal liquor licenses are managed by the governing body unless an operating agreement is entered with a third party. Under operating agreements, the municipality retains ownership of the license, but the establishment which sells the liquor is managed according to the arrangement specified in the operating agreement (SDCL 35-4-19).

Temporary Licenses and Permits

Any municipality may grant the following licenses for the sale of alcohol over a set, temporary period:

- (1) A special malt beverage retailers license
- (2) A special on-sale wine retailers license
- (3) A special on-sale license
- (4) A special off-sale package wine dealers license
- (5) A special off-sale package, allowing sale of donated items at charitable events
- (6) A special off-sale package malt beverage dealers license, allowing sale of donated items at charitable events
- (7) A special off-sale package dealers license, allowing sale of donated items at charitable events

Any of the licenses above may be issued for a period of time established by the municipality. However, no period of time may exceed fifteen consecutive days. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year. (SDCL 35-4-124)

A civic, charitable, educational, fraternal, or veterans' organization holding a special event may accept donated beverages to be sold at the special event. (SDCL 35-4-124.1)

- (8) Convention Hall/Entertainment Event License (SDCL 35-4-14.1)
- (9) Spiking Permit (SDCL 35-1-5.3)

NOTICE FOR PUBLICATION

Ordinance 2022-09

**AN ORDINANCE AMENDING ORDINANCE TITLE IX, CHAPTER 92, SUBSECTION
92.073 – UNAUTHORIZED USE OF CITY GARBAGE CONTAINERS/UNAUTHORIZED
DUMPING IN THE CITY OF SUMMERSET SD**

NOTICE IS HEREBY GIVEN that the City of Summerset will set the first reading on amended Ordinance #2022-09 Amending Title IX - Chapter 92, Subsection 92.073 – Unauthorized Use of City Garbage Containers/Unauthorized Dumping.

Said first reading will be held at Summerset City Hall, 7055 Leisure Lane, Summerset SD on August 18th, 2022 @ 6:00 p.m. The purpose of the public hearing is to accept public comment on the proposed amended ordinance.

Individuals needing assistance related to the American Disabilities Act should contact the Summerset City Finance Officer no less than 24 hours prior to this hearing to make necessary arrangements.

Dated this 21st day of July 2022.

City of Summerset

Published once on _____, at the total approximate cost of \$_____.

**§ 92.073 UNAUTHORIZED USE OF CITY GARBAGE
CONTAINERS/UNAUTHORIZED DUMPING/~~THEFT OF SERVICES~~**

(A) *Residential use only.* Public receptacles are present for the convenience of the public who use the city's sidewalk and park system so that they may deposit items of garbage therein rather than litter. The public receptacles are not for the purpose of dumping large quantities of garbage, construction debris, or other waste generated by commercial operations. It shall be a violation of this section for any entity or commercial operation, including, but not limited to, construction contractors, to utilize the city's collection bins and containers for the purposes of disposing of waste material and garbage, including construction debris. This pertains to all collection bins, whether placed for the purpose of depositing solid waste, yard waste, or recyclables.

(B) *Outside waste.* It is unlawful for any person residing outside of the corporate limits of the city to bring quantities of garbage, yard waste, or recyclables accumulated out of the town, and deposit them in any receptacle to be collected by the city along the streets or elsewhere within the corporate limits. The receptacles and waste deposit areas, whether for garbage, yard waste or recyclables, are established by the City for its residents, and a violation of this provision constitutes a theft of services.

(C) *Construction debris.* It shall be illegal and a violation of this section for any person or entity to dispose of debris resulting from the construction, demolition, or repair of any buildings in any containers placed by the city, including the solid waste, yard waste, and recyclable containers. These items include, but are not limited to, brick, stone, concrete, plumbing materials, plaster, asphalt, roofing, floor coverings, gutters and shingles. Demolition and construction waste, excavation byproducts, and other debris or like material shall not be deposited in city receptacles.

(D) *Additional prohibited items.* It is further a violation of this section for any individual to dispose of the following items in any of the city's collection bins and containers:

(E) ~~Civil penalty. Fine and Punishment.~~ A violation of this section is punishable constitutes a Class 2 misdemeanor under South Dakota law and is punishable by up to 30 days in imprisonment in the county jail or a \$500 fine, or both fine and imprisonment in accordance with the General Penalty ordinance under Title I, Chapter 10, Section 10.99. by a civil penalty in an amount of up to \$500. Each separate violation is a separate offense. subject to a civil penalty in this amount. Law enforcement is authorized to proceed with issuing a citation for each violation upon witnessing said violation or upon receipt of a verified complaint detailing the facts of the violation. The city may also enforce the~~this~~ section by injunction.

(Ord. 2021-04, passed 9-2-2021)

ORDINANCE _____

AN ORDINANCE AMENDING TITLE IX: GENERAL REGULATIONS, CHAPTER 92: HEALTH AND SANITATION, NUSIANCES, SECTION 92.073 UNAUTHOIRZED USE OF CITY GARBAGE CONTAINERS/UNAUTHORIZED DUMPING

**BE IT ORDAINED BY THE CITY BOARD OF COMMISSIONERS OF THE
CITY OF SUMMERSET**, Meade County, South Dakota that the following changes,
amendments, and additions be made to the City of Summerset Ordinance Title IX, Chapter 92,
Section 92.073.

Section 92.073 UNAUTHORIZED USE OF CITY GARBAGE CONTAINERS/UNAUTHORIZED DUMPING/THEFT OF SERVICES

- (A) *Residential use only.* Public receptacles are present for the convenience of the public who use the city's sidewalk and park system so that they may deposit items of garbage therein rather than litter. The public receptacles are not for the purpose of dumping large quantities of garbage, construction debris, or other waste generated by commercial operations. It shall be a violation of this section for any entity or commercial operation, including, but not limited to, construction contractors, to utilize the city's collection bins and containers for the purposes of disposing of waste material and garbage, including construction debris. This pertains to all collection bins, whether placed for the purpose of depositing solid waste, yard waste, or recyclables.
- (B) *Outside waste.* It is unlawful for any person residing outside of the corporate limits of the city to bring quantities of garbage, yard waste, or recyclables accumulated out of the town, and deposit them in any receptacle to be collected by the city along the streets or elsewhere within the corporate limits. The receptacles and waste deposit areas, whether for garbage, yard waste or recyclables, are established by the City for its residents, and a violation of this provision constitutes a theft of services.
- (C) *Construction debris.* It shall be illegal and a violation of this section for any person or entity to dispose of debris resulting from the construction, demolition, or repair of any buildings in any containers placed by the city, including the solid waste, yard waste, and recyclable containers. These items include, but are not limited to, brick, stone, concrete, plumbing materials, plaster, asphalt, roofing, floor coverings, gutters and shingles. Demolition and construction waste, excavation byproducts, and other debris or like material shall not be deposited in city receptacles.

(D) *Additional prohibited items.* It is further a violation of this section for any individual to dispose of the following items in any of the city's collection bins and containers:

(E) *Fine and Punishment.* A violation of this section constitutes a Class 2 misdemeanor under South Dakota law and is punishable by up to 30 days in imprisonment in the county jail or a \$500 fine, or both fine and imprisonment in accordance with the General Penalty ordinance under Title I, Chapter 10, Section 10.99. Each separate violation is a separate offense. Law enforcement is authorized to proceed with issuing a citation for each violation upon witnessing said violation or upon receipt of a verified complaint detailing the facts of the violation. The city may also enforce this section by injunction.

(Ord. 2021-04, passed 9-2-2021)