

**BOARD OF ECONOMIC DEVELOPMENT  
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD  
TUESDAY, APRIL 10, 2018, 9:30 A.M. CT**

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**BOARD OF ECONOMIC DEVELOPMENT  
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD  
TUESDAY, APRIL 10, 2018, 9:30 A.M. CT**

**Board  
Members:**

**Jeff Erickson**

**Dale Clement**

**Tony Klein**

**Sharon  
Casey**

**John Calvin**

**Mike Luken**

**Greg  
Heineman**

**Ted Husted**

**Don  
Kettering**

**Pat  
Prostrollo**

**Tom Jones**

**Norbert  
Sebade**

**Reed Kessler**

**Non-Voting**

**Spencer  
Hawley**

**Billie Sutton**

**Lee Qualm**

**Blake Curd**

**Motion Sheet  
(STAFF RECOMMENDATIONS)**

**Agenda**

Motion to approve the agenda as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Minutes**

Motion to approve the minutes of the meetings held March 13, 2018 and March 29, 2018, as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Conflicts of Interest Disclosures**

**Special Assets Contract**

Motion to approve the Special Assets Contract as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Commissioners Comments**

**Executive Session**

Motion to enter into executive session to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Chairman: Declare board out of executive session. [        a.m.]. Chairman: The BED entered into executive session to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants. No action was taken.**

**Motion to approve the chairman's report from executive session.**

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Loan Review Summary**

**Agile Manufacturing, LLC and Bellmark Properties, Inc.**

Motion to approve the loan reviews and recommendations as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Old Business**

**Applied Engineering, LLC**

Motion to approve amending the loan documents as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Please note times:

Call To Order: \_\_\_\_\_

Executive Session \_\_\_\_\_

Regular Session \_\_\_\_\_

Adjournment \_\_\_\_\_

**Greater Huron Development Corporation**

Motion to approve extending the grant agreement date to November 30, 2019.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**PEDCO/South Dakota Pulse Processors, LLC**

Motion to approve the borrowers request to access the rent reserve account as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Sioux Falls Development Foundation**

Motion to approve the collateral release as presented.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**New Business**

**South Dakota Jobs Program**

**True North Steel, Inc.**

Motion to approve the South Dakota Jobs grant application of True North Steel, Inc. as recommended by staff.

Having considered the applicable factors and the likelihood the project would not occur in South Dakota without a grant, a South Dakota Jobs grant in the amount of \$26,257, but not to exceed the State Sales and Use Tax paid on eligible equipment costs, is approved for True North Steel, Inc. The project as completed must be substantially similar to the project described in the application and must comply with the applicable deadlines and requirements set forth in statute and administrative rule.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Reinvestment Payment Program**

**Prairie AquaTech Manufacturing, LLC**

Motion to approve the Reinvestment Payment application of Prairie AquaTech Manufacturing, LLC as recommended by staff.

Based on the representations and project description contained in the application for reinvestment payment, including but not limited to the representations concerning jobs created or retained and wages and benefits to be paid, a new or expanded facility reinvestment payment of \$748,935.00 but not to exceed 100 percent of State Sales/Use Tax paid on eligible project costs, is approved for Prairie AquaTech Manufacturing, LLC. The project as completed must be substantially similar to the project described in the application and must comply with the deadlines set out SDCL Ch. 1-16G and ARSD Ch. 68:02:07. The board has considered the factors set out in SDCL 1-16G-59 and ARSD 68:02:07:04 and the likelihood the project would not be located in South Dakota absent the reinvestment payment. Staff is authorized to issue a permit consistent with the application, this approval and the applicable provisions of SDCL Ch. 1-16G and ARSD Ch. 68:02:07.

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

**Adjourn**

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_.

A

**BOARD OF ECONOMIC DEVELOPMENT  
GOED CONFERENCE ROOM, 711 E WELLS AVE, SD  
TUESDAY, APRIL 10, 2018, 9:30 A.M. CT**

**REGULAR SESSION AGENDA**

9:30 A.M. Call To Order, Chairman Jeff Erickson

9:35 A.M. **Agenda**  
RECOMMENDED ACTION: Motion to approve the agenda as provided or amended.

**Minutes**  
RECOMMENDED ACTION: Motion to approve the minutes of March 13, 2018 and March 29, 2018, as presented.

**Conflicts of Interest Disclosures**

**Monthly Financials**  
RECOMMENDED ACTION: No action taken.

**Special Assets Contract**  
RECOMMENDED ACTION: Motion to approve the Special Assets Contract as presented.

9:45 A.M. Commissioner's Comments

9:55 A.M. **Executive Session**  
RECOMMENDED ACTION: Motion to enter into executive session to discuss contract matters and commercial and financial information relating to loan and other assistance applicants.

10:45 A.M. **Report from Executive Session**  
RECOMMENDED ACTION: Approve Chairman's report from Executive Session.

Other Motions

- Loan Review Summary
- Applied Engineering, Inc.
- Greater Huron Development Corporation
- PEDCO/South Dakota Pulse Processors, LLC
- Sioux Falls Development Foundation
- South Dakota Jobs Program
- True North Steel, Inc.
- Reinvestment Payment Program
- Prairie AquaTech Manufacturing, LLC

Notice is further given to persons with disabilities that this meeting is being held in a physically accessible place. Please notify the above mentioned office within 48 hours of the public hearing if you have special needs for which this agency will make the necessary arrangements.

Participation in the meeting can be at GOED at 711 E Wells Ave, Pierre, South Dakota, or the GOED office at the Zeal Center for Entrepreneurship at 2329 N. Career Avenue, Sioux Falls, South Dakota.

B

**BOARD OF ECONOMIC DEVELOPMENT  
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD  
TUESDAY, MARCH 13, 2018, 9:30 A.M. CT**

Members Present

Chairman Jeff Erickson, Don Kettering, Dale Clement, Tony Klein, Sharon Casey, Mike Luken, Ted Husted, Pat Prostrollo, Tom Jones and Norbert Sebade

Staff Present

Deputy Commissioner Aaron Scheibe, Cassie Stoesser, Ashley Moore, Cassidy Kulesa, LaJena Gruis, Dale Knapp, Natalie Likness and Joe Fiala

Other Staff Present

Sam Helma - BankWest, Inc.

Others Present

Bob Mercer

Call to Order

Chairman Erickson called the meeting to order at 9:33 a.m.

Agenda

A motion was Sharon Casey made by and seconded by Don Kettering to approve the agenda as presented.

Motion passed by a roll call vote.

Minutes

A motion was made by Norbert Sebade and seconded by Dale Clement to approve the minutes of the meetings held February 13, 2018 and February 28, 2018, as presented.

Motion passed by a roll call vote.

Conflicts Disclosure

Chairman Erickson opened the floor for board members to identify potential conflicts under SDCL Chapter 3-23. There were none from board members and no objection to proceeding with the agenda.

Executive Session

A motion was made by Don Kettering and seconded by Mike Luken to enter into executive session at 9:45 a.m. to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants.

Motion passed by a roll call vote.

Executive Session Report

The Chairman declared the board out of executive session at 10:14 a.m. The Chairman reported that the Board of Economic Development entered into Executive Session to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants. No action was taken.

A motion was made by Norbert Sebade and seconded by Pat Prostrollo to approve the Chairman's report from executive session.

Motion passed by a roll call vote.

Old Business

Intrinsic Materials Corp.

A motion was made by Nobert Sebade and seconded by Pat Prostrollo to approve amending the collateral required to secure the REDI loan.

Motion passed by a roll call vote.

New Business

Economic Development Partnership Program

Black Hills Community Economic Development

A motion was made by Mike Luken and seconded by Pat Prostrollo to approve an Economic Development Partnership grant award to Black Hills Community Economic Development in the amount of \$7,500, to be granted in accordance with the board's Economic Development Award Policy for Training Only as recommended by staff and Grant Committee.

Motion passed by a roll call vote.

Areawide Business Council, Inc. (RLF), Flandreau Development Corporation, Four Bands Community Fund, Inc. (RLF), Wagner Area Growth, Inc. (RLF) and West River Foundation (RLF)

A motion was made by Mike Luken and seconded by Don Kettering to deny as recommended by staff and Grant Committee.

Motion passed by a roll call vote.

Local Infrastructure Improvement Program

City of North Sioux City and City of Aurora

A motion was made by Ted Hustead and seconded by Don Kettering to approve as recommended by staff and Grant Committee.

City of North Sioux City

Approve a Local Infrastructure Improvement grant award to the City of North Sioux City in the amount of \$250,000, to be granted in accordance with the board's Local Infrastructure Improvement Award Policy.

City of Aurora

Approve a Local Infrastructure Improvement grant award to the City of Aurora in the amount of \$50,000, to be granted in accordance with the board's Local Infrastructure Improvement Award Policy.

Motion passed by a roll call vote.

Adjourn

A motion was made by Tony Klein and seconded by Dale Clement to adjourn the meeting at 10:20 a.m.

Motion passed by a roll call vote.

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Dale Clement, Secretary or Tony Klein, Treasurer



**CREDIT COMMITTEE**  
**GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD**  
**THURSDAY, MARCH 29, 2018, 1:00 P.M. CT**

Members Present

Chairman Jeff Erickson, Dale Clement, Pat Prostrollo, Don Kettering and Norbert Sebade

Staff Present

Commissioner Scott Stern, Deputy Commissioner Aaron Scheibe, Cassie Stoesser, Ashley Moore and Cassidy Kulesa

Other Staff Present

Sam Helma and Mike Bietz - BankWest, Inc.

Call to Order

Chairman Erickson called the meeting to order at 1:04 p.m.

Agenda

A motion was made Norbert Sebade and seconded by Pat Prostrollo to approve the agenda as presented.

Motion passed by a roll call vote.

Conflicts Disclosure – Chairman Erickson opened the floor for committee members to identify potential conflicts under SDCL Chapter 3-23. There were none from committee members and no objection to proceeding with the agenda.

Executive Session

A motion was made by Dale Clement and seconded by Don Kettering to enter into executive session at 1:06 p.m. to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants.

Motion passed by a roll call vote.

Executive Session Report

The Chairman declared the Credit Committee out of executive session at 1:48 p.m. The Chairman reported that the Board of Economic Development Credit Committee entered into Executive Session to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants. No action was taken.

A motion was made by Pat Prostrollo and seconded by Don Kettering to approve the chairman's report from executive session.

Motion passed by a roll call vote.

Loan Reviews

Agile Manufacturing, LLC and Bellmark Properties, Inc.

Credit Committee recommends to the Board to accept the loan reviews and recommendations as discussed.

Motion was made by Dale Clement and seconded by Don Kettering.

Motion passed by a roll call vote.

Old Business

Applied Engineering, Inc.

Credit Committee recommends to the Board amending the loan documents as presented.

Motion was made by Dale Clement and seconded by Pat Prostrollo.

Motion passed by a roll call vote.

PEDCO/South Dakota Pulse Processors, LLC

Credit Committee recommends to the Board approving the borrower's request to access the rent reserve account as presented.

Motion was made by Pat Prostrollo and seconded by Norbert Sebade.

Motion passed by a roll call vote.

Sioux Falls Development Foundation

Credit Committee recommends to the Board approving the collateral release as presented.

Motion was made by Don Kettering and seconded by Pat Prostrollo.

Motion passed by a roll call vote.

Adjourn

A motion was made by Pat Prostrollo and seconded by Dale Clement to adjourn the meeting at 1:51. p.m.

Motion passed by a roll call vote

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Dale Clement, Secretary or  
Tony Klein, Treasurer

C

**SOUTH DAKOTA REVOLVING  
ECONOMIC DEVELOPMENT AND INITIATIVE FUND  
FINANCIAL REPORT  
(Compiled)  
February 28, 2018**

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# Clausen & Rice, LLP

Certified Public Accountants and Business Consultants

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Daniel T. Rice, CPA

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## Accountant's Compilation Report

To the Board of Directors  
South Dakota Revolving Economic Development and Initiative Fund  
Pierre, South Dakota

Management is responsible for the accompanying financial statements of South Dakota Revolving Economic Development and Initiative Fund (an Enterprise Fund of the State of South Dakota) as of February 28, 2018, and the related statements of revenues, expenses and changes in net assets and cash flows for the eight months then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Management has elected to omit substantially all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Entity's financial position, results of operations, and cash flows. Accordingly, the financial statements are not designed for those who are not informed about such matters.

The supplementary information contained on pages 5 through 7 is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information is the representation of management. The information was subject to our compilation engagement, however, we have not audited or reviewed the supplementary information and, accordingly, do not express an opinion, a conclusion, nor provide any form of assurance on such supplementary information.

We are not independent with respect to South Dakota Revolving Economic Development and Initiative Fund.

*Clausen & Rice, LLP*

Pierre, South Dakota  
March 26, 2018

**SOUTH DAKOTA REVOLVING  
ECONOMIC DEVELOPMENT AND INITIATIVE FUND**

**STATEMENT OF NET ASSETS**

**February 28, 2018**

**See Accountant's Compilation Report**

**ASSETS**

Cash and Investments-Unrestricted	\$49,045,706
Cash and Investments-Designated for Approved REDI Loans	24,608,370
Cash-SD Jobs	<u>2,074,384</u>
Total Cash and Investments	\$75,728,460
Accounts Receivable-Bankwest	28,327
Loans Receivable - REDI, net of allowance of \$869,191	38,847,271
Loan Interest Receivable	45,833
Net Pension Asset	0
Equipment	0
Due From Other Funds	0
Investment Income Receivable	<u>1,231,666</u>
<b>TOTAL ASSETS</b>	<u><b>\$115,881,557</b></u>

**DEFERRED OUTFLOWS OF RESOURCES**

Deferred Outflows of Resources Related to Pensions	<u>128,507</u>
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<u><b>128,507</b></u>

**LIABILITIES**

Accounts Payable	\$11,179
Wages and Benefits Payable	\$27,443
Accrued Leave Payable	\$25,121
Net Pension Liability	\$52,408
Due To Other Funds	<u>\$8,279</u>
<b>TOTAL LIABILITIES</b>	<u><b>\$124,430</b></u>

**DEFERRED INFLOWS OF RESOURCES**

Deferred Inflows of Resources Related to Pensions	<u>858</u>
<b>TOTAL DEFERRED INFLOWS OF RESOURCES</b>	<u><b>858</b></u>

**NET POSITION**

Investment in Capital Assets	0
Unrestricted	<u>115,884,776</u>
<b>TOTAL NET POSITION</b>	<u><b>\$115,884,776</b></u>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<u><b>\$116,010,064</b></u>

**SOUTH DAKOTA REVOLVING**

**ECONOMIC DEVELOPMENT AND INITIATIVE FUND**

**STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS**

**For the Month Ending February 28, 2018**

**See Accountant's Compilation Report**

	<u>Current Period</u>	<u>Year to Date</u>
<b>OPERATING REVENUE</b>		
Interest Income on Loans - REDI	\$64,992	\$457,899
Ethanol Income - REDI	0	0
Other Income - REDI	0	41,302
Building South Dakota Income	0	87,462
<b>LESS OPERATING EXPENSES</b>		
Administrative Expenses	54,806	458,788
Bad Debt Expense	(7,484)	(70,245)
Other Expenses	0	8,983
Building South Dakota Grants	0	0
<b>NET INCOME (LOSS) FROM OPERATIONS</b>	<b>\$17,670</b>	<b>\$189,137</b>
<b>NONOPERATING REVENUE</b>		
Investment Income	152,768	1,254,145
<b>CHANGE IN NET POSITION</b>	<b>\$170,438</b>	<b>\$1,443,282</b>
<b>NET POSITION, BEGINNING</b>	<b>115,714,338</b>	<b>114,441,494</b>
Prior period Adjustment	0	0
<b>NET POSITION, ENDING</b>	<b><u>\$115,884,776</u></b>	<b><u>\$115,884,776</u></b>



**SOUTH DAKOTA REVOLVING  
ECONOMIC DEVELOPMENT AND INITIATIVE FUND  
STATEMENT OF CASH FLOWS**

**For the Month Ending February 28, 2018**

**See Accountant's Compilation Report**

	Current Period	Year to Date
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Change in Net Position	\$170,438	\$1,443,282
Adjustments to Reconcile Net Income to		
Net Cash provided from (used in) Operating Activities:		
(Increase) Decrease in Accounts Receivable - Bankwest	0	0
(Increase) Decrease in Loans Receivable - REDI	314,460	(1,829,732)
(Increase) Decrease in Loan		
Interest Receivable	(6,589)	(16,439)
(Increase) Decrease in Loans Receivable - VASF	0	0
(Increase) Decrease in Equipment	0	0
(Increase) Decrease in VASF Fuel Tax		
Revenues Receivable	0	0
(Increase) Decrease in Investment		
Income Receivable	(152,768)	(323,842)
(Increase) Decrease in Due From Other Funds	0	0
(Increase) Decrease in Other Assets	0	0
Increase (Decrease) in Accounts Payable	0	0
Increase (Decrease) in Wages Payable	0	0
Increase (Decrease) in Accrued Leave Payable	0	0
Increase (Decrease) in Grants Payable	0	0
Increase (Decrease) in Due To Other Funds	0	0
	\$325,541	(\$726,731)
<b>CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:</b>		
Prior Period Adjustment	0	0
	\$325,541	(\$726,731)
<b>NET INCREASE IN CASH AND INVESTMENTS</b>		
<b>CASH AND INVESTMENTS - BEGINNING</b>	75,402,919	76,455,191
<b>CASH AND INVESTMENTS - ENDING</b>	\$75,728,460	\$75,728,460

**SOUTH DAKOTA REVOLVING  
ECONOMIC DEVELOPMENT AND INITIATIVE FUND**

**ADDITIONAL LOAN INFORMATION - REDI**

**For the Month Ending February 28, 2018**

**See Accountant's Compilation Report**

**REDI LOANS APPROVED, NOT ADVANCED**

<u>Company Name</u>	<u>Approval Date</u>	<u>Loan Amount</u>
Applied Engineering, Inc.	03/14/2017 & 07/11/2017	\$ 1,122,600
Omega Liner Company, Inc.	3/14/2017	\$ 888,750
City of Valley Springs	6/13/2017	\$ 508,750
Tower Properties, LLC	6/13/2017	\$ 1,537,500
Century Custom Molding, Inc.	7/11/2017	\$ 520,000
Vantage Point Solutions, Inc.	7/11/2017	\$ 1,350,000
O'Conner Kiln and Dryer, Inc.	8/8/2017	\$ 440,196
Doyle Family Land Company, LLC	9/12/2017	\$ 1,755,000
JMo Holdings, Inc.	9/12/2017	\$ 3,600,000
R & R Holdings, LLC	9/12/2017	\$ 900,000
Vermillion Area Chamber of Commerce and Devp.	9/12/2017	\$ 1,696,500
Fiedler Holding, LLC	10/24/2017	\$ 1,152,338
Harvard Integrations, LP	11/14/2017	\$ 1,332,800
Harvard Integrations, LP	11/14/2017	\$ 600,000
Roto Mold, LLC	11/14/2017	\$ 170,000
Roto Mold, LLC	11/14/2017	\$ 256,500
Acquisition Group III, LLC	2/13/2018	\$ 3,099,384
Intrinsic Materials Corp.	2/13/2018	\$ 1,131,750
Intrinsic Materials Corp.	2/13/2018	\$ 2,546,302
<b>Total</b>		<b><u>\$ 24,608,370</u></b>

See Accountant's Compilation Report

<b>REDI LOANS ADVANCED, DURING</b>	<b>February</b>	<b>Advanced Date</b>	<b>Loan Amount</b>
<u>Company Name</u>		<u>                    </u>	<u>                    </u>

None

<b>REDI LOANS PAID OFF, DURING</b>	<b>February</b>	<b>Pay-off Date</b>	<b>Original Loan Amount</b>
<u>Company Name</u>		<u>                    </u>	<u>                    </u>

eyeBrain Medical, Inc.

2/20/2018

\$181,102

<b>REDI LOANS WROTE OFF, DURING</b>	<b>February</b>	<b>Wrote-off Date</b>	<b>Amount Wrote-off</b>
<u>Company Name</u>		<u>                    </u>	<u>                    </u>

None

<b>REDI LOANS WITHDRAWN, DURING</b>	<b>February</b>	<b>Withdrawal Date</b>	<b>Withdrawn Amount</b>
<u>Company Name</u>		<u>                    </u>	<u>                    </u>

None

**SOUTH DAKOTA REVOLVING  
ECONOMIC DEVELOPMENT AND INITIATIVE FUND  
ADDITIONAL LOAN INFORMATION - SDJP**

**For the Month Ending February 28, 2018**

**See Accountant's Compilation Report**

**SOUTH DAKOTA JOBS PROGRAM CASH & INVESTMENTS BALANCE**

Dedicated SDJP Fund Cash and Investments Balance	1/31/2018	\$2,074,384
Plus: Investment Council Interest		0
South Dakota Jobs		0
		0
Less:		0
		0
		0
Dedicated SDJP Fund Cash and Investments Balance	2/28/2018	<u>\$2,074,384</u>

**SOUTH DAKOTA JOBS PROGRAM CASH & INVESTMENTS BALANCE APPROVED, NOT ADVANCED**

**RESTRICTED**

<u>Company Name</u>	<u>Approval Date</u>	<u>Amount Remaining</u>	
Applied Engineering, Inc.	3/14/2017	39,801	\$39,801 Authorized
			\$0 Disbursed
Omega Liner Company, Inc.	3/14/2017	90,000	\$90,000 Authorized
			\$0 Disbursed
VRC Metal Systems, LLC	9/12/2017	45,000	\$45,000 Authorized
			\$0 Disbursed
Century Custom Molding, Inc.	10/24/2017	76,500	\$76,500 Authorized
			\$0 Disbursed
Specialized Machine, LLC	12/12/2017	6,345	\$6,345 Authorized
			\$0 Disbursed
		<u>\$257,646</u>	

**UNRESTRICTED**

Total South Dakota Jobs Program Cash and Investments	\$2,074,384
Less Cash and Investments-Restricted for Approved Loans/Grants	\$257,646
Total Unrestricted South Dakota Jobs Program Cash and Investments	<u>\$1,816,738</u>

D

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT  
STATE OF SOUTH DAKOTA  
CONSULTING CONTRACT

AGREEMENT made and entered into this     th day of April, 2018, by and between The State of South Dakota, Governor's Office of Economic Development, a state agency, 711 E. Wells Ave., Pierre, SD 57501, (the "State") and DAKA Group, LLC, 5000 S Pennbrooke Avenue, Sioux Falls SD 57108 (the "Consultant").

The State hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. The Consultant will assist GOED with credit liquidations, credit workouts and all processes involved with the collection process to include but not limited to: lender meetings, travel to borrowers facility for site and monitoring visits, and monthly status updates to the respective boards on borrowers. Upon an event of liquidation, Consultant will assist GOED with securing collateral and coordinating sales activities with lenders, landlords and other parties involved. Consultant will also compile any information required to complete the liquidation processes and all related activities.

2. The Consultant's services under this Agreement shall commence on April 16, 2018 and end on April 15, 2019, unless renewed or sooner terminated pursuant to the terms hereof.

3. The Consultant will be allowed to access relevant GOED credit files in person or through an offsite user computer log in for all credit analysis programs required to complete the Consultant's duties and responsibilities under this Contract. The Consultant shall maintain all borrower information in strict confidence and will at all times be bound by and comply with SDCL 1-16G-11 (copy attached).

4. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$46,000.00 per year and is based on an annual retainer fee of \$1,500.00 plus \$100.00 per hour worked and billed for the first 20 hours of work, followed by \$75.00 per hour worked and billed thereafter, not to exceed 587 hours. The retainer fee will be invoiced separately by Consultant at the start of the contract period. Consultant shall thereafter submit detailed invoices for payment to the State on a bi-monthly basis, which invoices shall describe in reasonable detail the Services performed during the applicable time period, the amount of time incurred for each task, and the total amount of compensation requested. Consultant shall pay all of Consultant's own expenses incurred in performing the Services hereunder, except that the State will reimburse consultant for hotel expenses incurred by Consultant in performing services on behalf of the State, which expenses shall not be incurred without the prior oral or written approval of the State. The State agrees to pay each invoice within 30 days after it receives such invoice from Consultant. Notwithstanding the foregoing, the maximum amount of compensation for hourly services and expenses, plus the retainer, under this agreement shall be \$46,000.00.

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

6. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain adequate commercial general liability insurance or equivalent form with a limit of not less than \$300,000 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance: The Consultant shall maintain adequate business automobile liability insurance.

C. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' insurance as required by South Dakota law.

Before beginning work under this Agreement, the Consultant shall furnish the State, at its request, with properly executed Certificates of Insurance, which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the State.

7. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Consultant or the State to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law.

Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

9. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the State because of Consultant's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Consultant it is determined that Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.

10. 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 law or federal funds reductions, 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.

11. 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.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

13. The Consultant will comply 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.

14. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Consultant will include provisions in its subcontracts requiring its subcontractors 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 Consultant will cause its subcontractors, 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.

15. 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 Scott Stern on behalf of the State, and by Mike Snyders, on behalf of the Consultant, 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.

16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

17. 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.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

SIGNATURE PAGE FOLLOWS



STATE

CONSULTANT

BY: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

State Agency Coding (MSA Center): 0105112520

State Agency MSA Company for which contract will be paid: 6510

Object/Subject MSA account to which voucher will be coded: 52041300

Name and Phone number of contact person in State Agency who can provide additional information regarding this contract: Cassie Stoesser 605-773-5195