

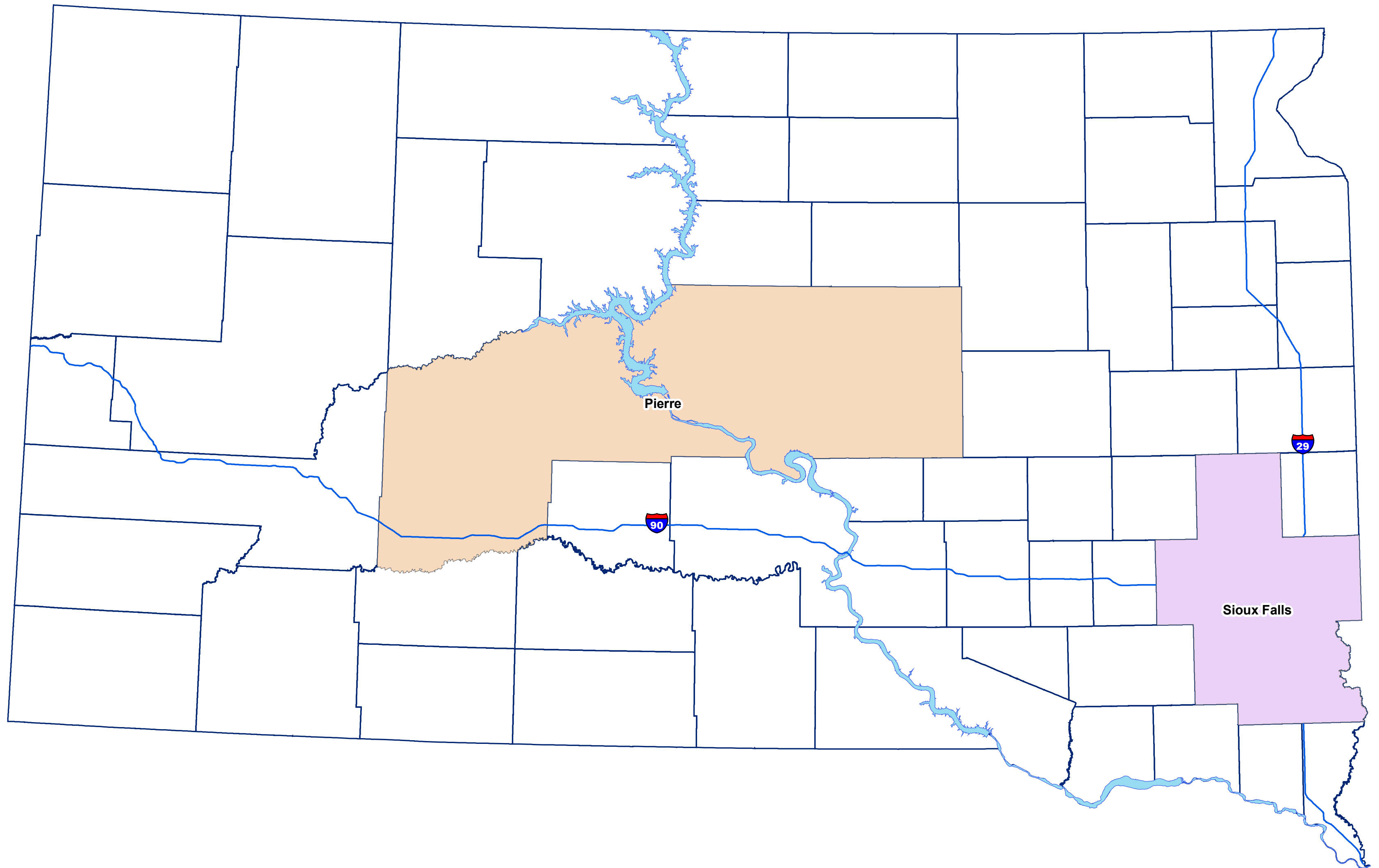
March 2022
Dedicated Solid Waste Management Fees

Solid Waste Management Program (SWMP)

Available Prior Year Funds (6-Jan-2022):	\$ 1,286,816
2022 Omnibus Appropriation:	\$ 2,750,000
Reversions:	\$ -
Available for Award:	<u>\$ 4,036,816</u>

Solid Waste Management Funding Applications

March 2022



**SOLID WASTE MANAGEMENT PROGRAM FUNDING APPLICATION
FINANCIAL ANALYSIS SUMMARY**

APPLICANT: City of Pierre

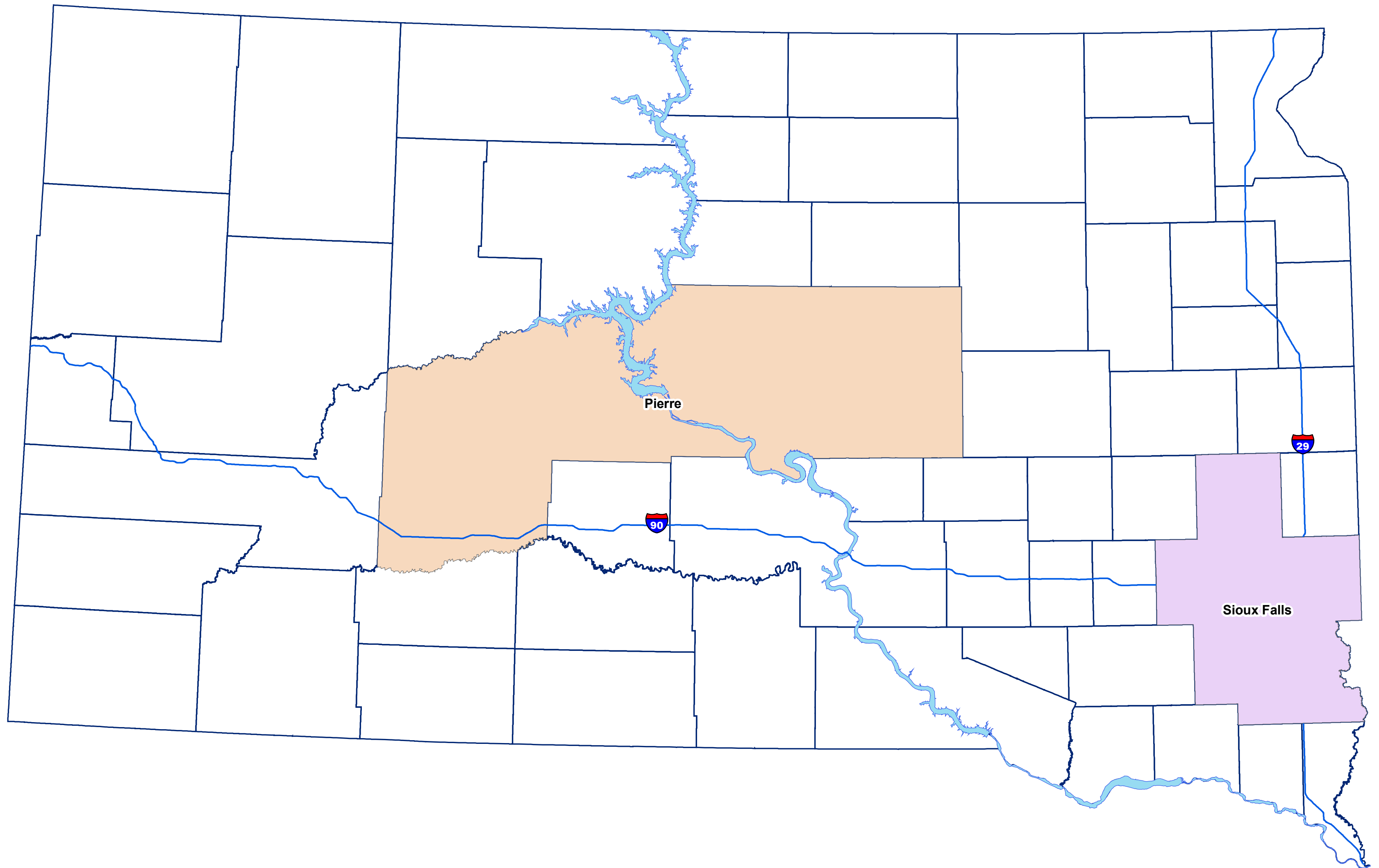
Total Project Cost:	\$860,200
BWNR Funding Assistance Requested:	\$215,100
Rate/Term:	N/A
Security Pledged For Repayment Of Loan:	N/A

Staff Analysis

- 1) Pierre will purchase a replacement scraper at the Regional Landfill facility to haul soil to the active MSW cell and construction debris disposal pit. The current scraper is past its service life and is currently non-operable. This purchase will help them achieve their daily and intermediate cover permit requirements

Funding Recommendation: Award a Solid Waste Management Program grant at 20.0% of eligible costs not to exceed \$172,000.

Solid Waste Management Funding Applications March 2022



**SOLID WASTE MANAGEMENT PROGRAM FUNDING APPLICATION
FINANCIAL ANALYSIS SUMMARY**

APPLICANT: City of Sioux Falls

Total Project Cost: \$904,575

BWNR Funding Assistance Requested: \$452,288

Rate/Term: N/A

Security Pledged For Repayment Of Loan: N/A

Staff Analysis

- 1) The City of Sioux Falls is seeking funding assistance to purchase a waste shredder to grind construction and demolition debris and other bulky wastes at its regional landfill facility. The proposed shredder will improve volume reduction of these waste streams at the landfill and ultimately extend the useful life of the facility.

Funding Recommendation: Award a Solid Waste Management Program grant at 20% of eligible costs not to exceed \$180,000.

March 2022
Dedicated Solid Waste Management Fees

Solid Waste Management Program (SWMP)

Available Prior Year Funds (6-Jan-2022):	\$	1,286,816
2022 Omnibus Appropriation:	\$	2,750,000
Reversions:	\$	-
Available for Award:	\$	<u>4,036,816</u>
Recommended:	\$	<u>(367,500)</u>
Balance:	\$	3,669,316

**STATE OF SOUTH DAKOTA
BOARD OF WATER AND NATURAL RESOURCES**

**Sub-Recipient Agreement
Between**

SPONSOR

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

Address

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: **SPONSOR**
- b. Sub-Recipient’s DUNS number and unique entity identifier: **DUNS**
- c. Federal Award Identification Number (FAIN): **XXX**
- d. Federal Award Date: **XXX**
- e. Sub-award Period of Performance: Execution of Agreement through the day of , 20
- f. Amount of federal funds obligated to the Sub-Recipient by this Agreement:
\$
- g. Total amount of federal funds obligated to the Sub-Recipient: \$
- h. Total amount of the federal award committed to the Sub-Recipient:
\$
- i. The federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA), is as follows: **XXX**

- 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 [redacted] day of [redacted], 20 [redacted], 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

f. 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 PROJECT NAME 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 PROJECT NAME 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 \$

If the Sub-Recipient has pledged matching funds for the project from non-State ARPA funds, the State ARPA grant funds will not be disbursed until those matching 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.

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 **PROJECT NAME** 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 Forcemain 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 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

Current Interest Rates

Clean Water State Revolving Fund Loan Rates

	Interest	Admin	Total
Term Up to 30 Years	1.625%	0.50%	2.125%
Term Up to 20 Years	1.500%	0.50%	2.000%
Term Up to 10 Years	1.375%	0.50%	1.875%
Interim Financing (5 years)	2.00%	0.00%	2.00%
NPS--Watershed Incentive Rate (Up to 30 Years)	1.125%	0.25%	1.375%
NPS--Watershed Incentive Rate (Up to 20 Years)	1.00%	0.25%	1.25%
NPS--Watershed Incentive Rate (Up to 10 Years)	0.75%	0.25%	1.00%

Drinking Water State Revolving Fund Loan Rates

	Interest	Admin	Total
Term Up to 30 Years **	1.625%	0.50%	2.125%
Term Up to 20 Years	1.500%	0.50%	2.000%
Term Up to 10 Years	1.375%	0.50%	1.875%
Interim Financing (5 Years)	2.00%	0.00%	2.00%
<u>Disadvantaged Community* Loans Up To 30 Years</u>			
Median Household Income (MHI) between 80% of MHI and the MHI	1.625%	0.25%	1.875%
MHI between 60% and 80% of MHI	1.375%	0.25%	1.625%
MHI Income less than 60% of MHI	0.00%	0.00%	0.00%
<u>Disadvantaged Community* Loans Up To 10 Years</u>			
MHI between 60% and 80% of MHI	1.00%	0.00%	1.00%

* Disadvantaged community must meet a MHI and water rate criteria as per ARSD 74:05:11:01(11)

** Must be a municipality or special purpose governmental entities to receive 30-year non-disadvantaged loan

Consolidated Water Facilities Construction Fund Loan Rates

Term Up to 30 Years	2.125%
Term Up to 20 Years	2.000%
Term Up to 10 Years	1.875%

Solid Waste Management Program Loan Rates

Term Up to 20 Years	2.000%
Term Up to 10 Years	1.875%

Proposed Interest Rates - March 24, 2022

Clean Water State Revolving Fund Loan Rates

	Interest	Admin	Total
Term Up to 30 Years	1.875%	0.25%	2.125%
Term Up to 20 Years	1.750%	0.25%	2.000%
Term Up to 10 Years	1.625%	0.25%	1.875%
Interim Financing (5 years)	2.00%	0.00%	2.00%
NPS--Watershed Incentive Rate (Up to 30 Years)	1.125%	0.25%	1.375%
NPS--Watershed Incentive Rate (Up to 20 Years)	1.00%	0.25%	1.25%
NPS--Watershed Incentive Rate (Up to 10 Years)	0.75%	0.25%	1.00%

Drinking Water State Revolving Fund Loan Rates

	Interest	Admin	Total
Term Up to 30 Years	1.875%	0.25%	2.125%
Term Up to 20 Years	1.750%	0.25%	2.000%
Term Up to 10 Years	1.625%	0.25%	1.875%
Interim Financing (5 Years)	2.00%	0.00%	2.00%
<u>Disadvantaged Community* Loans Up To 30 Years</u>			
Median Household Income (MHI) between 80% of MHI and the MHI	1.625%	0.25%	1.875%
MHI between 60% and 80% of MHI	1.375%	0.25%	1.625%
MHI Income less than 60% of MHI	0.00%	0.00%	0.00%
<u>Disadvantaged Community* Loans Up To 10 Years</u>			
MHI between 60% and 80% of MHI	1.00%	0.00%	1.00%

* Disadvantaged community must meet a MHI and water rate criteria as per ARSD 74:05:11:01(11)

Consolidated Water Facilities Construction Fund Loan Rates

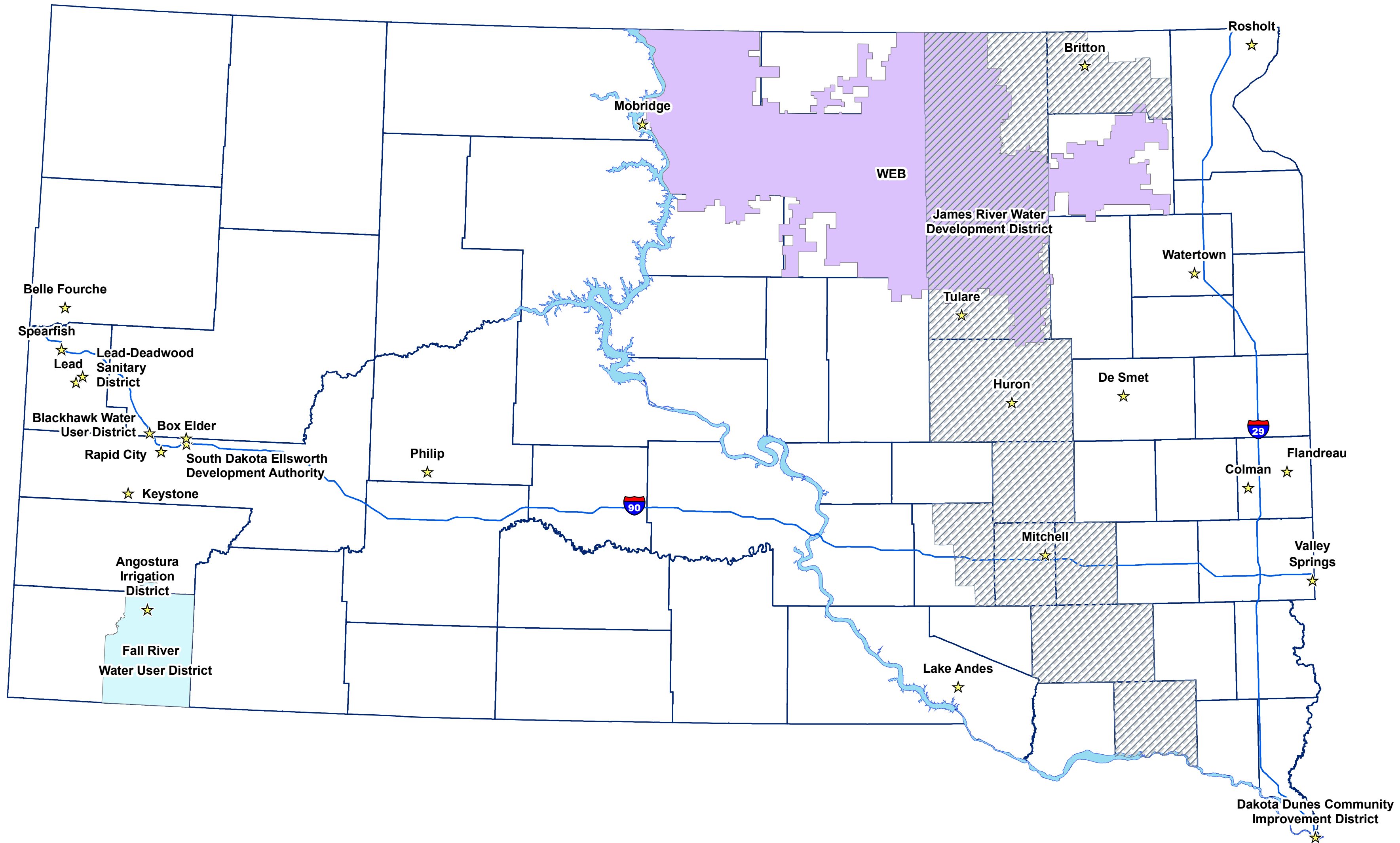
Term Up to 30 Years	2.125%
Term Up to 20 Years	2.000%
Term Up to 10 Years	1.875%

Solid Waste Management Program Loan Rates

Term Up to 20 Years	2.000%
Term Up to 10 Years	1.875%

State Water Plan Applications

March 2022



State Water Facilities Plan Applicants

Project Sponsor	Description	Projected State Funding (\$)	Recommendation
Angostura Irrigation District	Irrigation Pipe Repair	\$194,062	Place on Facilities Plan
Belle Fourche	Gallery Springs Line Replacement	\$5,328,000	Place on Facilities Plan
Black Hawk Water User District	Water System Improvements - Phase II	\$6,675,500	Place on Facilities Plan
Box Elder	Westgate Sewer Interceptor	\$2,868,750	Place on Facilities Plan
Box Elder	Water Distribution Improvements 2022	\$4,392,150	Place on Facilities Plan
Britton	Industrial Park Wastewater Improvements	\$532,000	Place on Facilities Plan
Britton	Industrial Park Water Improvements	\$1,043,000	Place on Facilities Plan
Colman	Water Distribution Improvements 2022	\$480,000	Place on Facilities Plan
Colman	Wastewater Collection System Improvements 2022	\$1,995,000	Place on Facilities Plan
Dakota Dunes Community Improvement District	Parallel Sanitary Sewer Line	\$415,376	Place on Facilities Plan
DeSmet	Water Distribution Improvements 2022	\$5,050,000	Place on Facilities Plan
DeSmet	Wastewater Collection System Improvements 2022	\$2,090,000	Place on Facilities Plan
Fall River Water User District	Water System Improvements	\$12,088,000	Place on Facilities Plan
Flandreau	Wastewater Collection System Improvements 2022	\$4,380,000	Place on Facilities Plan
Flandreau	Water Distribution Improvements 2022	\$4,440,000	Place on Facilities Plan
Huron	Water System Improvements 2022	\$42,317,600	Place on Facilities Plan
Huron	Wastewater Infrastructure Improvements 2022	\$16,660,850	Place on Facilities Plan

State Water Facilities Plan Applicants

Project Sponsor	Description	Projected State Funding (\$)	Recommendation
James River Water Development District	South Central Watershed Implementation Project - Segment 2	\$1,575,000	Place on Facilities Plan
Keystone	Well, Storage Tank, and Booster Station	\$781,258	Place on Facilities Plan
Keystone	Bullion Street Water and Wastewater Replacement	\$1,187,606	Place on Facilities Plan
Lake Andes	Lift Station and Forcemain Improvements	\$1,230,000	Place on Facilities Plan
Lead	Mill Street Wastewater and Storm Sewer Separation	\$501,261	Place on Facilities Plan
Lead	Mill Street Water Main Replacement	\$490,320	Place on Facilities Plan
Lead	Miners Avenue Wastewater and Storm Sewer Separation	\$346,788	Place on Facilities Plan
Lead	Miners Avenue Water Main Replacement	\$219,045	Place on Facilities Plan
Lead-Deadwood Sanitary District	Wastewater Treatment Plant Improvements	\$907,000	Place on Facilities Plan
Lead-Deadwood Sanitary District	Drinking Water System Improvements	\$3,720,000	Place on Facilities Plan
Mitchell	Wastewater Collection System Replacements	\$98,000,000	Place on Facilities Plan
Mobridge	Drinking Water System Improvements	\$11,300,000	Place on Facilities Plan
Mobridge	Wastewater System Improvements	\$3,000,000	Place on Facilities Plan
Philip	Wastewater and Storm Sewer Improvements	\$3,164,500	Place on Facilities Plan
Rapid City	Booster Station Improvements and Security Fencing Installation	\$710,000	Place on Facilities Plan
Rapid City	Water Reclamation Facility Equipment Upgrades and Security Fencing Installation	\$5,300,000	Place on Facilities Plan
Rosholt	Water Tower Construction	\$2,300,000	Place on Facilities Plan

State Water Facilities Plan Applicants

Project Sponsor	Description	Projected State Funding (\$)	Recommendation
South Dakota Ellsworth Development Authority	West River Water Regionalization Study	\$225,000	Place on Facilities Plan
Spearfish	Wastewater Conveyance and Treatment Improvements	\$8,521,000	Place on Facilities Plan
Spearfish	Exit 17 Water Tank and Well	\$4,620,000	Place on Facilities Plan
Tulare	Wastewater Improvements	\$2,540,000	Place on Facilities Plan
Valley Springs	Drinking Water System Improvements 2022	\$2,703,000	Place on Facilities Plan
Watertown	Landfill Cell #7 Construction	\$1,500,000	Place on Facilities Plan
WEB Water Development Association	Waterline Improvement Project	\$21,665,000	Place on Facilities Plan

Staff is recommending that the following projects be added to *Attachment I – Project Priority* list of the 2022 Clean Water SRF Intended Use Plan:

Priority Points	Loan Recipient	Estimated Loan Amount	Expected Loan Rate & Term
36	James River Water Development District	\$1,575,000	2.125%, 30 yrs
20	Rapid City	\$5,300,000	2.00%, 20 yrs
18	Spearfish	\$8,521,000	2.125%, 30 yrs
16	Lead	\$501,261	2.125%, 30 yrs
16	Lead	\$346,788	2.125%, 30 yrs
16	Lead-Deadwood Sanitary District	\$907,000	2.00%, 20 yrs
16	Mobridge	\$3,000,000	2.125%, 30 yrs
16	Watertown	\$1,500,000	1.875%, 10 yrs
13	Tulare	\$2,540,000	2.125%, 30 yrs
12	Huron	\$16,660,850	2.125%, 30 yrs
12	Mitchell	\$98,000,000	2.125%, 30 yrs
9	Box Elder	\$2,868,750	2.125%, 30 yrs
9	Britton	\$532,000	2.125%, 30 yrs
9	DeSmet	\$2,090,000	2.125%, 30 yrs
9	Flandreau	\$4,380,000	2.125%, 30 yrs
8	Colman	\$1,995,000	2.125%, 30 yrs
8	Dakota Dunes Community Improvement District	\$415,376	2.125%, 30 yrs
8	Lake Andes	\$1,230,000	2.125%, 30 yrs
8	Philip	\$3,164,500	2.125%, 30 yrs
7	Keystone	\$593,803	2.125%, 30 yrs

Staff is recommending that the following projects be added to *Attachment I – Project Priority* list of the 2022 Drinking Water SRF Intended Use Plan:

Priority Points	Loan Recipient	Estimated Loan Amount	Expected Loan Rate & Term
69	Fall River Water Users District	\$12,088,000	2.125%, 30 years
61	Mobridge	\$11,300,000	1.875%, 30 years
43	Keystone	\$781,258	1.625%, 30 years
38	Spearfish	\$4,620,000	1.625%, 30 years
37	Box Elder	\$4,392,150	1.625%, 30 years
35	South Dakota Ellsworth Development Authority	\$225,000	2.125%, 30 years
33	Huron	\$39,300,000	1.875%, 30 years
26	Lead-Deadwood Sanitary District	\$3,720,000	1.875%, 30 years
20	DeSmet	\$5,050,000	1.875%, 30 years
19	Colman	\$480,000	1.875%, 30 years
19	Valley Springs	\$2,703,000	2.125%, 30 years
12	Belle Fourche	\$5,328,000	1.625%, 30 years
11	Lead	\$501,261	1.875%, 30 years
11	Lead	\$219,045	1.875%, 30 years
10	Britton	\$1,043,000	1.875%, 30 years
10	Flandreau	\$4,440,000	1.875%, 30 years
10	Rapid City	\$710,000	1.875%, 30 years
10	WEB Water Development Association	\$21,665,000	1.875%, 30 years
8	Keystone	\$593,803	1.625%, 30 years
6	Black Hawk Water Users District	\$6,675,500	2.125%, 30 years
3	Rosholt	\$2,300,000	2.125%, 30 years

Infrastructure Investment and Jobs Act (IIJA) a.k.a. the Bipartisan Infrastructure Law (BIL)



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March 24, 2022

Board of Water and Natural Resources Meeting

Presentation Overview

- **SRF Program Funds and Subsidy**
 - **Base Program Allotments**
 - **BIL Allotments**
- **New Program Allotments**
- **New Requirements**



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CWSRF Program

- **Clean Water SRF Loan Fund**
 - **2022 Capitalization Grant - \$5,700,000**
 - **2022 BIL Allocation - \$8,809,000**
 - **Total = \$14,509,000**

- **Clean Water SRF Subsidy Levels**
 - **2022 Allowable Subsidy- \$2,300,000**
 - **2022 BIL Mandated Subsidy - \$4,316,410**
 - **Total = \$6,616,410**
 - **BIL subsidy only for disadvantaged communities**



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DWSRF Program

- **Drinking Water SRF Loan Fund**
 - **2022 Capitalization Grant - \$7,150,000**
 - **2022 BIL Allocation - \$17,955,000**
 - **Total = 25,105,000**

- **Drinking Water SRF Subsidy Levels**
 - **2022 Allowable Subsidy - \$3,500,000**
 - **2022 BIL Mandated Subsidy - \$8,797,950**
 - **Total = \$12,297,950**
 - **BIL subsidy only for disadvantaged communities**



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BIL Funding

- **Authorizations are for five years**
- **Funding levels are similar to 2022 levels with slight increase each year**
- **BIL allocations are in addition to annual SRF Capitalization Grants**



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New Program Allotments

- **Emerging Contaminants (PFAS/PFOS)**
 - **Clean Water SRF - \$462,000 annually**
 - **Drinking Water SRF - \$7,540,000 annually**
 - **Mandates 100% Subsidy**
 - **Focus is on perfluoroalkyl and polyfluoroalkyl substances (PFAS)**
 - **25% required to go to small or disadvantaged communities**

- **Funding is authorized for 5 years**



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New Program Allotments

- **Lead Line Replacement**
 - **Drinking Water SRF - \$28,275,000 annually**
 - **Mandates 49% Subsidy - \$13,854,750**
 - **Subsidy can only go to “disadvantaged communities”**
- **Funding is authorized for 5 years**



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New Requirements

- **Build America, Buy America Act**
 - Requires that construction materials used in a project are produced in the United States
 - Requires that all manufacturing processes for the construction material occurs in the United States
 - Construction material includes iron and steel, lumber, sheetrock, and manufactured items
 - More guidance forthcoming
 - Does not go away after BIL terminates



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New Requirements

- **Reduces State Match to 10% for 2 years**
- **Increased tracking and reporting**
- **Potentially seven Capitalization Grants per year (currently two)**
- **Intended Use Plans must identify uses for all allocations**

Guidance continues to be ongoing and new requirements may be forthcoming



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Questions?

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