

**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
TUESDAY, MAY 21, 2019, 2:00 P.M., CT**

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**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
TUESDAY, MAY 21, 2019, 2:00 P.M. CT**

**Board
Members:**

Jeff Erickson

Dale Clement

Matt Judson

*Sharon
Casey*

Mike Luken

Ted Husted

*Don
Kettering*

Tom Jones

Reed Kessler

Joy Nelson

Eric Yunag

Non-Voting

Lee Qualm

*Justin
Cronin*

Erin Healy

*Craig
Kennedy*

**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 April 9, 2019 and May 14, 2019, as presented

Motion made by _____ and seconded by _____.

Conflicts of Interest Disclosures

Public Comments

Clausen & Rice, LLP Accounting Contract

Motion to approve the Clausen & Rice, LLP contract for accounting services 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. [p.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

DBI Holdings, LLC and Red's All Natural, LLC

Motion to approve the loan reviews and recommendations as presented.

Motion made by _____ and seconded by _____.

Please note times:

Call To Order: _____

Executive Session _____

Regular Session _____

Adjournment _____

Old Business

Fiedler Holdings, LLC

Motion to approve a commitment extension to August 31, 2019.

Motion made by _____ and seconded by _____.

Philip Wind Partners, LLC

Motion to approve extending the construction commencement date to June 1, 2020.

Motion made by _____ and seconded by _____.

Sioux Falls Development Foundation

Motion to approve the requests and specific recommendations as presented.

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, MAY 21, 2019, 2:00 P.M. CT**

REGULAR SESSION AGENDA

- 2:00 P.M. Call to Order, Chairman Jeff Erickson
- 2:05 P.M. **Agenda**
RECOMMENDED ACTION: Motion to approve the agenda as provided or amended.
- Minutes**
RECOMMENDED ACTION: Motion to approve the minutes of April 9, 2019 and May 14, 2019, as presented.
- Conflicts of Interest Disclosures**
- Public Comments**
- Clausen & Rice, LLP Accounting Contract**
RECOMMENDED ACTION: Motion to approve the Clausen & Rice, LLP Accounting Contract as presented.
- Monthly Financials**
RECOMMENDED ACTION: No action taken.
- 2:10 P.M. **Commissioner's Comments**
- 2:15 P.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.
- 2:45 P.M. **Report from Executive Session**
RECOMMENDED ACTION: Approve Chairman's report from Executive Session.
- Other Motions**
Loan Review Summary
Fielder Holdings, LLC
Philip Winder Partners, LLC
Sioux Falls Development Foundation

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, APRIL 9, 2019, 2:00 P.M. CT**

Members Present

Chairman Jeff Erickson, Dale Clement, Matt Judson, Sharon Casey, Mike Luken, Pat Prostrollo, Tom Jones, Joy Nelson and Craig Kennedy

Staff Present

Cassie Stoesser, Ashley Moore, LaJena Gruis, Cassidy Kulesa, Dale Knapp, Natalie Likness, Jessica Falk and Joe Fiala

Other Staff Present

Andrew Coppersmith and Mike Bietz - BankWest, Inc.

Call to Order

Chairman Erickson called the meeting to order at 2:05 p.m.

Agenda

A motion was made by Dale Clement and seconded by Matt Judson to approve the agenda as presented.

Motion passed by a roll call vote.

Minutes

A motion was made by Mike Luken and seconded by Pat Prostrollo to approve the minutes of the meetings held March 12, 2019 and April 2, 2019, 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.

Public Comments - none

Executive Session

A motion was made by Sharon Casey and seconded by Pat Prostrollo to enter into executive session at 2:09 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 board out of executive session at 2:17 p.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 Mike Luken and seconded by Dale Clement to approve the Chairman's report from executive session.

Motion passed by a roll call vote.

Old Business

Sioux Falls Development Foundation

A motion was made by Pat Prostrollo and seconded by Sharon Casey to approve the collateral releases as presented.

Motion passed by a roll call vote.

Willow Creek Wind Power, LLC

A motion was made by Tom Jones and seconded by Joy Nelson to approve extending the construction commencement date to July 29, 2019.

Motion passed by a roll call vote.

Bills

A motion was made by Pat Prostrollo and seconded by Sharon Casey to approve the bill payable to PIDC in the amount of \$8,325 for Portfol Annual Maintenance.

Motion passed by a roll call vote.

Adjourn

The Chairman declared the meeting adjourned at 2:21 p.m.

Motion passed by a roll call vote.

Dale Clement, Secretary or Matt Judson, Treasurer

**CREDIT COMMITTEE
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
TUESDAY, MAY 14, 2019, 1:00 P.M. CT**

Members Present

Chairman Jeff Erickson, Don Kettering and Reed Kessler

Staff Present

Commissioner Steve Westra, Cassie Stoesser, Ashley Moore, LaJena Gruis and Cassidy Kulesa

Other Staff Present

Mike Bietz and Andrew Coppersmith - BankWest, Inc.

Call to Order

Chairman Erickson called the meeting to order at 1:01 p.m.

Agenda

A motion was made by Reed Kessler and seconded by Don Kettering 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.

Public Comment Period – none

Executive Session

A motion was made by Don Kettering and seconded by Reed Kessler to enter into executive session at 1:04 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 1:22 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 Reed Kessler and seconded by Don Kettering to approve the chairman's report from executive session.

Motion passed by a roll call vote.

Loan Reviews

DBI Holdings, LLC and Red's All Natural, LLC

Credit Committee recommends to the Board to approve the loan reviews and recommendations as presented.

A motion was made by Don Kettering and seconded by Reed Kessler.

Motion passed by a roll call vote.

Old Business

Fiedler Holdings, LLC

Credit Committee recommends to the Board to approve a commitment extension to August 31, 2019.

A motion was made by Reed Kessler and seconded by Don Kettering

Motion passed by a roll call vote.

Sioux Falls Development Foundation

Credit Committee recommends to the Board to approve the requests and specific recommendations as presented.

A motion was made by Don Kettering and seconded by Reed Kessler.

Motion passed by a roll call vote.

Adjourn

The Chairman declared the meeting adjourned at 1:24 p.m.

Dale Clement, Secretary or Matt Judson, Treasurer

C

**SOUTH DAKOTA REVOLVING
ECONOMIC DEVELOPMENT AND INITIATIVE FUND
FINANCIAL REPORT
(Compiled)
March 31, 2019**

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Clausen & Rice, LLP

Certified Public Accountants and Business Consultants

John E. Clausen, CPA

johnclausen.cpa@midconetwork.com

Daniel T. Rice, CPA

danrice.cpa@midconetwork.com

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 March 31, 2019, and the related statements of revenues, expenses and changes in net assets and cash flows for the nine 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
April 28, 2019

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

STATEMENT OF NET ASSETS

March 31, 2019

See Accountant's Compilation Report

ASSETS

Cash and Investments-Unrestricted	\$47,274,853
Cash and Investments-Designated for Approved REDI Loans	25,180,036
Cash-SD Jobs	<u>1,431,726</u>
Total Cash and Investments	\$73,886,615
Accounts Receivable-Bankwest	7,431
Loans Receivable - REDI, net of allowance of \$1,013,713	41,048,347
Loan Interest Receivable	49,914
Net Pension Asset	1,514
Due From Other Funds	506,081
Investment Income Receivable	<u>1,380,245</u>

TOTAL ASSETS \$116,880,147

DEFERRED OUTFLOWS OF RESOURCES

Deferred Outflows of Resources Related to Pensions	<u>162,747</u>
TOTAL DEFERRED OUTFLOWS OF RESOURCES	<u><u>162,747</u></u>

LIABILITIES

Accounts Payable	\$12,196
Wages and Benefits Payable	\$22,291
Accrued Leave Payable	\$23,876
Net Pension Liability	\$0
Due To Other Funds	<u>\$8,003</u>

TOTAL LIABILITIES \$66,366

DEFERRED INFLOWS OF RESOURCES

Deferred Inflows of Resources Related to Pensions	<u>29,509</u>
TOTAL DEFERRED INFLOWS OF RESOURCES	<u><u>29,509</u></u>

NET POSITION

Investment in Capital Assets	0
Unrestricted	<u>116,947,019</u>

TOTAL NET POSITION \$116,947,019

TOTAL LIABILITIES AND NET POSITION \$117,042,894

SOUTH DAKOTA REVOLVING

ECONOMIC DEVELOPMENT AND INITIATIVE FUND

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS

For the Month Ending March 31, 2019

See Accountant's Compilation Report

	<u>Current Period</u>	<u>Year to Date</u>
OPERATING REVENUE		
Interest Income on Loans - REDI	\$60,262	\$510,825
Ethanol Income - REDI	0	0
Other Income - REDI	0	98,244
Building South Dakota Income	0	0
LESS OPERATING EXPENSES		
Administrative Expenses	47,111	449,001
Bad Debt Expense	(3,510)	137,772
Other Expenses	1,817	13,889
Building South Dakota Grants	<u>0</u>	<u>63,801</u>
NET INCOME (LOSS) FROM OPERATIONS	\$14,844	(\$55,394)
NONOPERATING REVENUE		
Investment Income	<u>150,492</u>	<u>1,403,814</u>
CHANGE IN NET POSITION	\$165,336	\$1,348,420
NET POSITION, BEGINNING	116,781,683	115,598,599
Prior period Adjustment	<u>0</u>	<u>0</u>
NET POSITION, ENDING	<u>\$116,947,019</u>	<u>\$116,947,019</u>

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

For the Month Ending March 31, 2019

See Accountant's Compilation Report

	Current Period	Year to Date
CASH FLOWS FROM OPERATING ACTIVITIES:		
Change in Net Position	\$165,336	\$1,348,420
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	208,507	(1,780,090)
(Increase) Decrease in Loan Interest Receivable	(4,463)	(14,524)
(Increase) Decrease in Loans Receivable - LIIP	0	0
(Increase) Decrease in Equipment	0	0
(Increase) Decrease in VASF Fuel Tax Revenues Receivable	0	0
(Increase) Decrease in Investment Income Receivable	(150,492)	(494,533)
(Increase) Decrease in Due From Other Funds	0	(506,081)
(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
	\$218,888	(\$1,446,808)
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:		
Prior Period Adjustment	0	0
	\$218,888	(\$1,446,808)
NET INCREASE IN CASH AND INVESTMENTS	73,667,727	75,333,423
CASH AND INVESTMENTS - BEGINNING	73,667,727	75,333,423
CASH AND INVESTMENTS - ENDING	<u>\$73,886,615</u>	<u>\$73,886,615</u>

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

ADDITIONAL LOAN INFORMATION - REDI

For the Month Ending March 31, 2019

See Accountant's Compilation Report

REDI LOANS APPROVED, NOT ADVANCED

<u>Company Name</u>	<u>Approval Date</u>	<u>Loan Amount</u>
O'Conner Kiln and Dryer, Inc.	8/8/2017	\$ 440,196
JMo Holdings, Inc.	9/12/2017	\$ 3,600,000
Fiedler Holding, LLC	10/24/2017	\$ 1,152,338
Intrinsic Materials Corp.	2/13/2018	\$ 2,546,302
Farmer Union Industries, LLC	6/12/2018	\$ 3,600,000
K&M Tire, Inc.	8/14/2018	\$ 786,300
Terex South Dakota, Inc.	9/13/2018	\$ 10,000,000
RPC Land, LLC	12/11/2018	\$ 845,000
Watertown Development Company/Dakota Tube	12/11/2018	\$ 931,900
R & R Holdings, LLC	2/12/2019	\$ 1,278,000
Total		<u>\$ 25,180,036</u>

See Accountant's Compilation Report

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

None

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

None

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

None

REDI LOANS WITHDRAWN, DURING	March	Withdrawal Date	Withdrawn Amount
<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 March 31, 2019

See Accountant's Compilation Report

SOUTH DAKOTA JOBS PROGRAM CASH & INVESTMENTS BALANCE

Dedicated SDJP Fund Cash and Investments Balance	2/28/2019	\$1,431,726
Plus: Investment Council Interest		0
South Dakota Jobs		0
		0
Less:		0
Due from other funds		0
		0
Dedicated SDJP Fund Cash and Investments Balance	3/31/2019	<u>\$1,431,726</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	0	\$39,801 Authorized \$39,801 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
True North Steel, Inc.	4/10/2018	26,257	\$26,257 Authorized \$0 Disbursed
Masaba, Inc.	7/10/2018	0	\$24,000 Authorized \$24,000 Disbursed
MNY Group, LLC dba Life Floor	8/14/2018	17,674	\$17,674 Authorized \$0 Disbursed
Forest Products Distributors, Inc.	9/13/2018	21,937	\$21,937 Authorized \$0 Disbursed
Benaiah Management Company, Inc.	12/11/2018	100,000	\$100,000 Authorized \$0 Disbursed
		<u>\$287,368</u>	

UNRESTRICTED

Total South Dakota Jobs Program Cash and Investments	\$1,431,726
Less Cash and Investments-Restricted for Approved Loans/Grants	<u>\$287,368</u>
Total Unrestricted South Dakota Jobs Program Cash and Investments	<u>\$1,144,358</u>

D

STATE OF SOUTH DAKOTA
CONSULTING CONTRACT

AGREEMENT made and entered into this ___ day of June, 2019 by and between the State of South Dakota, Governor's Office of Economic Development, a state agency, of 711 E Wells Ave., Pierre, SD 57501, (the "State") and Clausen and Rice, LLP, 430 West Sioux Ave, PO Box 1117, Pierre, SD 57501(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 perform services for the State as follows: prepare monthly financial statements, assist in the fiscal year-end accounting, and provide financials to the Department of Legislative Audit for the SD Board of Economic Development's annual audit (BED). Consultant will also prepare quarterly financial statements for the grant programs administered under BED.

2. The Consultant's services under this Agreement shall commence on July 1, 2019, and end on June 30, 2020, unless sooner terminated pursuant to the terms hereof.

3. The Consultant will not use State equipment, supplies or facilities. The Consultant will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.

4. The State will make payment for services to be paid upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$21,500. Payment will be made pursuant to itemized invoices submitted with a signed state voucher. Payment will be made consistent with SDCL ch. 5-26.

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 applicable insurance coverage of the types as follows:

A. Commercial General Liability Insurance: The Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$250,000 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. 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, Consultant shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or non-renewal of the policy, the Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Consultant shall furnish copies of insurance policies if requested by 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.

No party shall be liable for a delay in performance or failure to perform its obligations under this Agreement if such delay or failure is due to acts of God or any other event beyond the control of the parties, including, without limitations, fire, explosion, weather, disease, war, insurrection, civil strife, riots, government action or power failure, provided, however, that the party who is unable to perform resumes performance as soon as possible following the end of the event causing the delay.

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. Consultant hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by the Consultant in connection with its performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by the Consultant without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.

16. 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 Steve Westra on behalf of the State, and by John Clausen, 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.

17. 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.

18. 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.

19. 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.

STATE

CONSULTANT

BY: _____

BY: _____

DATE: _____

DATE: _____

- State Agency Coding (MSA Center):
- State Agency MSA Company for which contract will be paid:
- Object/subobject MSA account to which voucher will be coded:
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract: Cassie Stoesser 605-773-5195