

**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
WEDNESDAY, JULY 13, 2022, 10:00 A.M., CT**

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**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
WEDNESDAY, JULY 13, 2022, 10:00 A.M., CT**

**Board
Members:**

Motion Sheet

Please note times:

Call To Order: _____

Executive Session _____

Regular Session _____

Adjournment _____

Jeff Erickson

(STAFF RECOMMENDATIONS)

Matt Judson **Agenda**

Motion to approve the agenda as presented.

**Sharon
Casey**

Motion made by _____ and seconded by _____.

Mike Luken

Minutes

Ted Hustead Motion to approve the minutes of the meetings held June 8, 2022, as presented

**Don
Kettering** Motion made by _____ and seconded by _____.

Tom Jones **Casey Peterson, LTD Accounting Contract**

Motion to approve the Casey Peterson, LTD accounting contract as presented.

Reed Kessler

Motion made by _____ and seconded by _____.

Joy Nelson

Eric Yunag **Conflicts of Interest Disclosures**

Pat Burchill **Public Comments**

**Kevin
Tetzlaff** **Commissioners Comments**

David Emery **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.

Non-Voting

**Senator
Reynold
Nesiba** 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.

**Representative
Jennifer Keintz**

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

**Representative
Kent Peterson** Motion made by _____ and seconded by _____.

Old Business

City of Box Elder

Motion to approve an extension of the grant agreement to June 9, 2023, retroactive to June 9, 2022.

Motion made by _____ and seconded by _____.

IntraGlobal Biologics, Inc.

Motion to approve the request to forgive the loan as presented.

Motion made by _____ and seconded by _____.

New Business

Reinvestment Payment Program

Maguire Iron, Inc.

Motion to approve the Reinvestment Payment Program grant application to Maguire Iron, Inc. 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 \$184,500 but not to exceed 50% percent of State Sales/Use Tax paid on eligible project costs, is approved for Maguire Iron, Inc. 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, PIERRE, SD
WEDNESDAY, JULY 13, 2022, 10:00 A.M., CT**

The public may participate by the following:

Call In Number: (669) 900-9128 Meeting ID: 96677988449 Participant Id: # Passcode: 421401
<https://state-sd.zoom.us/j/96677988449?pwd=S1I2bW5wRkd6OWJmVjUza0N2K1pDQT09>
www.zoom.com Meeting ID: 96677988449 Passcode: 421401

REGULAR SESSION AGENDA

- 10:00 A.M. Call to Order, Chairman Jeff Erickson
- 10:05 A.M. **Agenda**
RECOMMENDED ACTION: Motion to approve the agenda as provided or amended.
- Minutes**
RECOMMENDED ACTION: Motion to approve the minutes of June 8, 2022 as presented.
- Approve Casey Peterson, LTD Accounting Contract**
RECOMMENDED ACTION: Motion to approve the Casey Peterson, LTD accounting contract as presented.
- Conflicts of Interest Disclosures**
- Public Comments**
- 10:15 A.M. **Commissioner's Comments**
- 10:20 A.M. **Executive Session**
RECOMMENDED ACTION: Motion to enter into executive session to consult with legal counsel concerning contractual matters, to discuss contractual matters, and to discuss commercial and financial information relating to loan and other assistance applicants. SDCL 1-25-2(3), 1-25-2(4), 1-16G-11, 19-19-502
- 10:45 A.M. **Report from Executive Session**
RECOMMENDED ACTION: Approve Chairman's report from Executive Session.
- Other Motions**
 City of Box Elder
 IntraGlobal Biologics, Inc.
 Reinvestment Payment Program
 Maguire Iron, Inc.

Adjournment

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.

B

**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
WEDNESDAY, JUNE 8, 2022, 10:00 A.M., CT**

Members Present

Chairman Jeff Erickson, Matt Judson, Mike Luken, Ted Hustead, Don Kettering, Tom Jones, Reed Kessler, Joy Nelson, David Emery, Pat Burchill and Reynold Nesiba

Staff Present

Commissioner Steve Westra, Deputy Commissioner Chris Schilken, Travis Dovre, Ashley Moore, Jack Valentine, Cathleen Rouillard, Nadine Agneau and Joe Fiala

Other Staff Present

Mike Bietz and Andrew Coppersmith – BankWest, Inc.

Call to Order

Chairman Erickson called the meeting to order at 10:04 a.m.

Agenda

A motion was made by Ted Hustead and seconded by Matt Judson to approve the agenda as approved.

Motion passed by a voice vote.

Minutes

A motion was made by Matt Judson and seconded by Joy Nelson to approve the minutes of the meetings held April 13, 2022, May 25, 2022 and May 31, 2022, as presented.

Motion passed by a voice 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 Matt Judson and seconded by Mike Luken to enter into Executive Session at 10:11 a.m. to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants. SDCL 1-25-2(4) and SDCL 1-16G-11.

Motion passed by a voice vote.

Executive Session Report

The Chairman declared the board out of Executive Session at 10:35 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 Ted Hustead and seconded by Joy Nelson to approve the Chairman's report from Executive Session.

Motion passed by a voice vote.

Reviews

Grant Reviews

Economic Development Partnership Program (Herreid Economic Development Corporation), Local Infrastructure Improvement Program (Clark County) and Reinvestment Payment Program (Blooming Valley Dairy, LLC, Dakota Range III, LLC, Norway Pork OP, LLC, Sweetland Wind Farm, LLC and Wild Springs Solar, LLC

A motion was made by Mike Luken and seconded by David Emery to approve the grant reviews and recommendations as recommended by staff and Grant Committee.

Motion passed by a voice vote.

Loan Review Summary

Harbor Group Investments, LLC

A motion was made by Matt Judson and seconded by Pat Burchill to approve the loan review and recommendation as presented.

Motion passed by a voice vote.

Old Business

North Bend Wind Project, LLC

A motion was made by Don Kettering and seconded by Pat Burchill to approve extending the construction start date to January 25, 2023.

Motion passed by a voice vote.

New Business

Millborn Seeds, Inc.

A motion was made by Ted Hustead and seconded by Don Kettering to approve the waiver for a loan of \$1,000,000 and a loan request from Millborn Seeds, Inc. in the amount of \$2,200,000. Secured by a shared 2nd lien position on the build, real estate, acreage and equipment and the personal guaranty of principals with 10% or more ownership.

The loan is approved according to the terms and conditions of the commitment letter; all documents may be executed on behalf of the Board by the Commissioner of the Governor's Office of Economic Development or the Commissioner's designee.

Motion passed by a voice vote.

Local Infrastructure Improvement Program

City of Yankton

A motion was made by Pat Burchill and seconded by Ted Hustead to approve a Local Infrastructure Improvement grant award to City of Yankton in the amount of \$213,379, to be granted in accordance with the board's Local Infrastructure Improvement Award Policy as recommended by staff and Grant Committee.

Motion passed by a voice vote.

Bills

A motion was made by Joy Nelson and seconded by Pat Burchill to approve the bill payable to BankWest Insurance in the amount of \$9,807.78.

Motion passed by a voice vote.

Adjourn

A motion was made by Matt Judson and seconded by Ted Hustead to adjourn the meeting at 10:42 a.m.

Matt Judson, Treasurer

C

STATE OF SOUTH DAKOTA
CONSULTING CONTRACT

Agreement made and entered into this 1st day of July, 2022, 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 Casey Peterson, LTD, 909 St. Joseph Street, Suite 101, Rapid City, SD 57701 (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 (BED) annual audit. Further detail of the scope of work and engagement is attached hereto as Exhibit A.

2. The Consultant's services under this Agreement shall commence on July 1, 2022 and end on June 30, 2023, 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 upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$45,000.00 and hourly rates for services as described in Exhibit A will apply. The State will not pay Consultant's expenses as a separate item. 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 insurance coverage of the types and with the limits 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 \$1,000,000.00 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. Professional Liability Insurance or Miscellaneous Professional Liability Insurance: The Consultant agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.

C. Business Automobile Liability Insurance: The Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

D. Worker's Compensation Insurance: The Consultant shall procure and maintain workers' compensation and employers' liability 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 nonrenewal 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.

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. The Consultant certifies that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Consultant further agrees that it will immediately notify the State if during the term of this Agreement Consultant 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.

17. 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 and to Deidre Budahl, 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.

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.

20. Pursuant to Executive Order 2020-01, for contractors, vendors, suppliers, or subcontracts with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by signing this contract Contractor certifies and agrees that it has not refused to transact business activities, have not terminated business activities, and have not taken other similar actions intended to limit its commercial relations, related to the subject matter of the contract, 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 contract. Contractor further agrees to provide immediate written notice to the State if during the term of the contract it no longer complies with this certification, and agrees such noncompliance may be grounds for contract termination.

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

STATE

CONSULTANT

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

State Agency Coding (MSA Center) 0105111520

State Agency MSA Company for which contract will be paid 6510

Object/subobject MSA account to which voucher will be coded 52040400

Name and phone number of contact person in State Agency who can provide additional information regarding this contract Travis Dovre (605)773-4633.

Exhibit A



June 28, 2022

Governor's Office of Economic Development
- Board of Economic Development
Revolving Economic Development Initiative fund
711 East Wells Avenue
Pierre, South Dakota 57501

You have requested that we prepare the monthly financial statements of the Governor's Office of Economic Development - Board of Economic Development Revolving Economic Development Initiative Fund during the year ended June 30, 2023, which comprise the statements of net position and the related statements of revenues, expenses, and changes in net position and cash flows. As you have requested, the monthly financial statements will not include the related notes to the financial statements as required by accounting principles generally accepted in the United States of America.

You have requested that we prepare the annual financial statements of the Governor's Office of Economic Development - Board of Economic Development Revolving Economic Development Initiative fund which comprise the statement of net position as of June 30, 2023 and the related statements of revenues, expenses, and changes in net position and cash flows and the related notes to the financial statements for the year then ended as required by accounting principles generally accepted in the United States of America.

We are pleased to confirm our acceptance and our understanding of this engagement by means of this letter.

Our Responsibilities

The objective of our engagement is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America based on information provided by you. We will conduct our engagement in accordance with Statements on Standards for Accounting and Review Services (SSARs) promulgated by the Accounting and Review Services Committee of the AICPA and comply with the AICPA's Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care.

We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion nor provide any assurance on the financial statements.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the entity or noncompliance with laws and regulations.

Management Responsibilities

The engagement to be performed is conducted on the basis that management acknowledges and understands that our role is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America. Management has the following overall responsibilities that are fundamental to our undertaking the engagement to prepare your financial statements in accordance with SSARs:

- a. The selection of the accounting principles generally accepted in the United States of America as the financial reporting framework to be applied in the preparation of the financial statements.

RAPID CITY

909 ST. JOSEPH STREET, SUITE 101
RAPID CITY, SD 57701
605.348.1930

GILLETTE

612 S. DOUGLAS HWY
GILLETTE, WY 82716
307.682.4795

FAITH

127 MAIN ST. S.
FAITH, SD 57626
605.791.3142

WWW.CASEYPETERSON.COM

- b. The design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- c. The prevention and detection of fraud.
- d. To ensure that the entity complies with the laws and regulations applicable to its activities.
- e. The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement to prepare financial statements.
- f. To provide us with:
 - i. Access to all information of which you are aware that is relevant to the preparation and presentation of the financial statements, such as records, documentation, and other matters;
 - ii. Additional information that may be requested for the purpose of the preparation of the financial statements; and
 - iii. Unrestricted access to persons within the Governor's Office of Economic Development - Board of Economic Development with whom we determine necessary to communicate.

The financial statements will not be accompanied by a report. However, you agree that the financial statements will clearly indicate that no assurance is provided on them.

Other Relevant Information

As part of our engagement, we will also:

- Propose adjusting or correcting journal entries to be reviewed and approved by Governor's Office of Economic Development - Board of Economic Development's management.
- Consult management on the implementation of new accounting standards.

With respect to any nonattest services we perform:

- We will not assume management responsibilities on behalf of the Governor's Office of Economic Development - Board of Economic Development. However, we will provide advice and recommendations to assist management of the Governor's Office of Economic Development - Board of Economic Development in performing its responsibilities.
- The Governor's Office of Economic Development - Board of Economic Development's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.
- Our responsibilities and limitations of the engagement are as follows:
 - We will perform the services in accordance with applicable professional standards.
 - This engagement is limited to the services previously outlined. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account coding and approving journal entries.

We want you to be aware of our record retention policy with respect to your files and related documentation. Based on our present policies, we will maintain this information either in hard copy or electronic format for seven years after which it will be destroyed. We may modify our record retention policies from time to time in accordance with our professional obligations. It is, therefore, important for you to keep the copies of your reports and related supporting data in your files.

Deidre Budahl, CPA is the engagement partner for the audit services specified in this letter. Her responsibilities include supervising Casey Peterson, LTD's services performed as part of this engagement.

Our fees for these services are based on time spent and will be calculated at our regular hourly rates which depend on the level of professional assigned to the work and the complexity of the work being performed. We agree that our fees for these services will not exceed \$45,000 for the year ended June 30, 2023. Our invoices for these services will be rendered as work progresses and are payable on presentation.

We will be pleased to discuss this letter with you at any time. If you request us to perform additional services not contemplated or described in this engagement letter, we will provide you with a separate agreement describing those additional services and fees.

Please sign and return this letter to indicate your acknowledgement of, and agreement with, the arrangements for our engagement to prepare the financial statements described herein, and our respective responsibilities.

Respectfully,



Casey Peterson, LTD

RESPONSE:

Governor's Office of Economic Development - Board of Economic Development

This letter correctly sets forth our understanding.

Signature

Title

Date