

**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
WEDNESDAY, AUGUST 9, 2023, 10:00 A.M., CT**

TABLE OF CONTENTS

- A. Regular Session Agenda
- B. Minutes
- C. Feasibility Study
- D. Executive Session Agenda
- E. Monthly Status Report
- F. Watch List
- G. Loan Review Summary
- H. City of Yankton
- I. Fall River Solar, LLC
- J. Redstone Dairy, LLP
- K. Roto Mold, LLC
- L. Tower Properties, LLC
- M. Wilson Trailer Company
- N. Reinvestment Payment Program
 - 1. High Plains Processing, LLC

**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
WEDNESDAY, AUGUST 9, 2023, 10:00 A.M., CT**

Motion Sheet

Please note times:

Call To Order: _____

Executive Session _____

Regular Session _____

Adjournment _____

**Board
Members:**

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

*Don
Kettering* Motion to approve the minutes of the meeting held July 12, 2023 and July 31, 2023, as presented

Tom Jones

Motion made by _____ and seconded by _____.

Reed Kessler

Conflicts of Interest Disclosures

Joy Nelson

Eric Yunag **Public Comments**

*Kevin
Tetzlaff* **Committee Approvals**

Motion to accept the appointment of Craig Christianson to Credit Committee.

David Emery

Motion made by _____ and seconded by _____.

*Craig
Christianson*

Feasibility Study

Motion to approve the draft RFP for the feasibility study as presented and discussed.

Non-Voting

*Senator
Reynold
Nesiba*

Motion made by _____ and seconded by _____.

Commissioners Comments

*Senator
Casey
Crabtree*

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. SDCL 1-16G-11

*Representative
Will Mortenson*

Motion made by _____ and seconded by _____.

*Representative
Kameron
Nelson*

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

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

Motion made by _____ and seconded by _____.

Loan Review Summary

Midstates, Inc.

Motion to approve the loan review and recommendation as presented.

Motion made by _____ and seconded by _____.

Old Business

City of Yankton

Motion to approve an extension of the LIIP grant agreement for the City of Yankton to December 31, 2023.

Motion made by _____ and seconded by _____.

Fall River Solar, LLC

Motion to approve the reimbursement to Ponderosa Holdings, LLC.

Motion made by _____ and seconded by _____.

Redstone Dairy, LLP

Motion to approve extending the RPP construction start date to February 28, 2025

Motion made by _____ and seconded by _____.

Roto Mold, LLC

Motion to approve collateral swap from Parcel 2 to Parcel 3.

Motion made by _____ and seconded by _____.

Tower Properties, LLC

Motion to approve the sale of an equipment piece as presented.

Motion made by _____ and seconded by _____.

Wilson Trailer Company

Motion to approve the increase of the RPP sales & use tax percentage from 20% to 50% as presented.

Motion made by _____ and seconded by _____.

New Business

Reinvestment Payment Program

High Plains Processing, LLC

Motion to approve the Reinvestment Payment Program grant application to High Plains Processing, LLC as recommended by staff.

Based on the representations and project description contained in the application for reinvestment payment, including but not limited to the representations concerning jobs created or retained and wages and benefits to be paid, a new or expanded facility reinvestment payment of \$6,606,962 but not to exceed 75% percent of State Sales/Use Tax paid on eligible project costs, is approved for High Plains Processing, LLC. The project as completed must be substantially similar to the project described in the application and must comply with the deadlines set out SDCL Ch. 1-16G and ARSD Ch. 68:02:07. The board has considered the

factors set out in SDCL 1-16G-59 and ARSD 68:02:07:04 and the likelihood the project would not be located in South Dakota absent the reinvestment payment. Staff is authorized to issue a permit consistent with the application, this approval and the applicable provisions of SDCL Ch. 1-16G and ARSD Ch. 68:02:07.

Motion made by _____ and seconded by _____.

Adjourn

Motion made by _____ and seconded by _____.

A

**BOARD OF ECONOMIC DEVELOPMENT
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
WEDNESDAY, AUGUST 9, 2023, 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 July 12, 2023 and July 31, 2023, as presented.
- Conflicts of Interest Disclosures**
- Public Comments**
- Committee Approvals**
RECOMMENDED ACTION: Motion to accept the appointment of Craig Christianson to Credit Committee.
- Feasibility Study**
RECOMMENDED ACTION: Motion to approve the draft RFP for the feasibility study as presented and discussed.
- 10:20 A.M. **Commissioner's Comments**
- 10:25 A.M. **Executive Session**
RECOMMENDED ACTION: Motion to enter into executive session to discuss contractual matters, and to discuss commercial and financial information relating to loan and other assistance applicants. SDCL 1-16G-11
- 11:00 A.M. **Report from Executive Session**
RECOMMENDED ACTION: Approve Chairman's report from Executive Session.
- Other Motions**
Loan Review Summary
City of Yankton
Fall River Solar, LLC
Redstone Dairy, LLP
Roto Mold, LLC
Tower Properties, LLC
Wilson Trailer Company

Reinvestment Payment Program
High Plains Processing, LLC

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, JULY 12, 2023, 10:00 A.M., CT**

Members Present

Chairman Jeff Erickson, Matt Judson, Sharon Casey, Mike Luken, Don Kettering, Tom Jones, Reed Kessler, Joy Nelson, Kevin Tetzlaff, Craig Christianson, Brad Moore, Reynold Nesiba and Kameron Nelson

Staff Present

Commissioner Chris Schilken, Travis Dovre, Ashley Moore, Jack Valentine, Nick Rabern, Nadine Agneau, Stephanie Deyo, Joe Fiala, Curtis Egan and Sarah Ebeling

Other Staff Present

Mike Bietz and Shawn Hofer – BankWest, Inc.

Call to Order

Chairman Erickson called the meeting to order at 10:01 a.m.

Agenda

A motion was made by Joy Nelson and seconded by Sharon Casey to approve the agenda as amended. The amendment to the agenda was to clarify 3M Center's inclusion under Other Motions.

Motion passed by a voice vote.

Minutes

A motion was made by Don Kettering and seconded by Mike Luken to approve the minutes of the meetings held June 14, 2023 and June 29, 2023, as presented.

Motion passed by a voice vote.

Feasibility Study Memo

A motion was made Matt Judson and seconded by Kevin Tetzlaff to approve commissioning a board funded study pursuant to ARSD 68:02:02:20 and direct GOED to start the process of drafting a Request for Proposals.

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 Reed Kessler and seconded by Don Kettering to enter into Executive Session at 10:22 a.m. to discuss contractual matters, and to discuss commercial and financial information relating to loan and other assistance applicants. SDCL 1-16G-11

Motion passed by a voice vote.

Executive Session Report

The Chairman declared the board out of Executive Session at 10:45 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 Sharon Casey and seconded by Brad Moore to approve the Chairman's report from Executive Session.
Motion passed by a voice vote.

New Business

SD Works

Kroeplin Air, LLC

A motion was made by Mike Luken and seconded by Joy Nelson to approve a SD Works loan request from Kroeplin Air, LLL in the amount of \$450,000. Secured by a first position mortgage on hanger M and second position mortgage on hanger H and the personal guarantees from 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.

Reinvestment Payment Program

3M Center

A motion was made by Don Kettering and seconded by Kevin Tetzlaff to approve the Reinvestment Payment Program grant application to 3M Center 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 up to \$14,976,206 but not to exceed 100% percent of State Sales/Use Tax paid on eligible project costs, is approved for 3M Center. 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 passed by a voice vote.

Adjourn

A motion was made by Mike Luken and seconded by Kevin Tetzlaff to adjourn the meeting at 10:50 a.m.
Motion passed by a voice vote.

Matt Judson, Treasurer

CREDIT COMMITTEE
GOED CONFERENCE ROOM, 711 E WELLS AVE, PIERRE, SD
MONDAY, JULY 31, 2023, 11:00 A.M. CT

Members Present

Chairman Jeff Erickson, Don Kettering and Matt Judson

Staff Present

Commissioner Chris Schilken, Ashley Moore, Travis Dovre, Jack Valentine, Nadine Agneau and Joe Fiala

Others Present

Mike Bietz and Shawn Hofer – BankWest, Inc.

Call to Order

Chairman Erickson called the meeting to order at 11:02 a.m.

Agenda

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

Motion passed by a voice vote.

Conflicts Disclosure – Chairman Erickson opened the floor for committee members to identify potential conflicts under SDCL Chapter 3-23. Jeff Erickson declared a potential conflict with Roto Mold, LLC and Tower Properties, LLC due to banking relations. The Chairman opened up the floor for questions and discussion concerning the potential conflicts; there were none from the 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 Don Kettering to enter into Executive Session at 11:03 a.m. to discuss contract matters and commercial and financial information relating to loan and other assistance to applicants. SDCL 1-16G-11.

Motion passed by a voice vote.

Executive Session Report

The Chairman declared the Credit Committee out of Executive Session at 11:22 a.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 Don Kettering and seconded by Matt Judson to approve the Chairman's report from executive session.

Motion passed by a voice vote.

Loan Review

Midstates, Inc.

Credit Committee recommends to the board approving the loan review and recommendation as presented.

A motion was made by Don Kettering and seconded by Matt Judson.

Motion passed by a voice vote.

Old Business

Roto Mold, LLC

Credit Committee recommends to the board approving a collateral swap on Parcel 2 to Parcel 3 as presented.

A motion was made by Matt Judson and seconded by Don Kettering.

Motion passed by a voice vote with Jeff Erickson abstaining.

Tower Properties, LLC

Credit Committee recommends to the board approving the sale of equipment as presented.

A motion was made by Don Kettering and seconded by Matt Judson.

Motion passed by a voice vote with Jeff Erickson abstaining.

Adjourn

A motion was made by Matt Judson and seconded by Don Kettering to adjourn the meeting at 11:25 a.m.

Motion passed by a voice vote.

Matt Judson, Treasurer

C

STATE OF SOUTH DAKOTA
Governor's Office of Economic Development

Small Scale Meat Packing Plant Feasibility Study

PROPOSALS ARE DUE NO LATER THAN 5:00 PM CST, September 8, 2023

RFP: #23RFP9024

State POC: Travis Dovre

EMAIL:
travis.dovre@sdgoed.com

READ CAREFULLY

FIRM NAME: _____ AUTHORIZED SIGNATURE: _____

ADDRESS: _____ TYPE OR PRINT NAME: _____

CITY/STATE: _____ TELEPHONE NO: _____

ZIP (9 DIGIT): _____ FAX NO: _____

E-MAIL: _____

PRIMARY CONTACT INFORMATION

CONTACT NAME: _____ TELEPHONE NO: _____

FAX NO: _____ E-MAIL: _____

1.0 GENERAL INFORMATION

1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

To contract for all aspects of an economic feasibility analysis pertaining to a small and mid-sized beef, pork, or combination thereof meat packing facility. The feasibility analysis will discuss all points further detailed in Section 3.0 Scope of Work.

Since the Covid-19 pandemic, South Dakota has had a lot of interest in new small to mid-sized beef and pork processing plants. The Board of Economic Development understands many of the challenges associated with the startup of these types of facilities but desires a more in-depth analysis of the current industry as it exists today along with the potential impact of adding additional processing capacity in the state.

The final analysis will be utilized, in whole or in part, by the Board when considering future loan and grant requests for such projects.

1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER

The Governor's Office of Economic Development is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, Governor's Office of Economic Development. The reference number for the transaction is RFP #23RFP9024. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

1.3 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

RFP Publication	August 10, 2023
Deadline submission for written inquiries	August 24, 2023
Responses to Offeror Questions	August 31, 2023
Proposal Submission	September 8, 2023
Oral Presentations	September 20, 2023
Anticipated Award Decision/Contract Negotiation	October 11, 2023

1.4 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received in the Governor's Office of Economic Development office by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

One (1) original and two (2) identical copies of the proposal shall be submitted. Additionally, the awarded vendor will be required to submit one electronic copy.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope should be marked with the appropriate RFP Number and Title. **Proposals should be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL #23RFP9024
PROPOSAL DUE September 8, 2023 by 5:00PM CST
Travis Dovre, Finance Director**

**South Dakota Governor's Office of Economic Development
711 East Wells Avenue
Pierre, SD 57501**

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

1.5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

1.6 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

1.7 RESTRICTION OF BOYCOTT OF ISRAEL

For contractors, vendors, suppliers, or subcontractors 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 submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the bid or offer, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel or its territories, 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 reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

1.8 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.9 OFFEROR INQUIRIES

Offerors may email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Inquiries must be emailed to **Travis Dovre at travis.dovre@sdgoed.com** with the subject line "RFP #23RFP9024".

The Governor's Office of Economic Development will respond to offeror's inquiries (if required) via e-mail. In addition, all inquiries and the State's response will be posted on the state's e-procurement system. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

1.10 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

1.11 LENGTH OF CONTRACT

The vendor's services under this agreement shall commence upon fully executing a consulting contract (anticipated to be October 11, 2023) and end on June 30, 2024.

1.12 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.

1.13 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by an offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

- 2.1** The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP and by this reference incorporated herein.

- 2.2** The Contractor's services under this Agreement shall commence on _____ and end on _____, unless sooner terminated pursuant to the terms hereof.
- 2.3** The Contractor will not use State equipment, supplies or facilities. The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
- 2.4** The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$ _____. The State will not pay Contractor'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.
- 2.5** The Contractor 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 Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
- 2.6** The Contractor, 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 Contractor 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 Contractor 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 Contractor 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 Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.
- Before beginning work under this Agreement, Contractor 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 Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.
- 2.7** While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
- 2.8** Contractor 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 Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.

Contractor'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. Contractor'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 Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

- 2.9** This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor 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 Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor'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 Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.
- 2.10** 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.
- 2.11** 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.
- 2.12** 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.
- 2.13** The Contractor 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.
- 2.14** The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor 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 Contractor 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.
- 2.15** Contractor 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 Contractor 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 Contractor 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.
- 2.16** The Contractor certifies that neither Contractor 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. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor 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.

- 2.17** 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 _____ on behalf of the State, and by _____, on behalf of the Contractor, 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.
- 2.18** 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.
- 2.19** 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.

3.0 SCOPE OF WORK

- available cattle supply
- sales and marketing; both on the procurement and finished product side
- processing economics; both direct and overhead costs
- a reasonable capital stack; i.e. debt to equity ratio at startup
- costs associated with rural construction and rural residual values of MPP facilities
- the small packing industry as it exists today in SD
- true workforce availability

4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

- 4.1** The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.
- 4.2** **Offeror's Contacts:** Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.
- 4.3** The offeror may be required to submit a copy of their most recent audited financial statements upon the State's request.
- 4.4** Provide the following information related to at least three previous and current service/contracts, performed by the offeror's organization, which are similar to the requirements of this RFP. Provide this information for any service/contract that has been terminated, expired or not renewed in the past three years.

- a. Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
- b. Dates of the service/contract; and
- c. A brief, written description of the specific prior services performed and requirements thereof.

DRAFT

5.0 PROPOSAL RESPONSE FORMAT

- 5.1 An original and two copies shall be submitted.
 - 5.1.1 In addition, the offeror should provide one (1) copy of their entire proposal, including all attachments, in Microsoft Word or PDF electronic format (flash drive, USB drive, etc.) Offerors may not send the electronically formatted copy of their proposal via email.
 - 5.1.2 The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number.
- 5.2 All proposals must be organized and tabbed with labels for the following headings:
 - 5.2.1 **RFP Form.** The State's Request for Proposal form completed and signed.
 - 5.2.2 **Executive Summary.** The one or two page executive summary is to briefly describe the offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.
 - 5.2.3 **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:
 - 5.2.3.1 A complete narrative of the offeror's assessment of the work to be performed, the offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the offeror's understanding of the desired overall performance expectations.
 - 5.2.3.2 A specific point-by-point response, in the order listed, to each requirement in the RFP. The response should identify each requirement being addressed as enumerated in the RFP.
 - 5.2.3.3 A clear description of any options or alternatives proposed.
 - 5.2.4 **Cost Proposal.** Cost will be evaluated in conjunction with the technical proposal.

6.0 PROPOSAL EVALUATION AND AWARD PROCESS

- 6.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:
 - 6.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
 - 6.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
 - 6.1.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
 - 6.1.4 Availability to the project locale;

- 6.1.5 Familiarity with the project locale;
 - 6.1.6 Proposed project management techniques; and
 - 6.1.7 Ability and proven history in handling special project constraints.
- 6.2** Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3** The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4** The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.
- 6.5 Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.
- 6.5.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
 - 6.5.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.

7.0 COST PROPOSAL

Scope of Work Section (Section 3.0) should be used to evaluate the amount of work required to be performed. The cost proposal should be itemized as cost per phase for each part of the proposal to reach desired objective. The budget for this project shall not exceed \$100,000.