

**South Dakota Science and Technology Authority**

**Annual Board Meeting  
June 28, 2018**



**South Dakota Science and Technology Authority**

630 East Summit Street  
Lead, SD 57754



**Call to Order—Chairperson Casey Peterson**

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1A. Call Roll

Dr. Ani Aprahamian  
Mr. Paul Christen  
Mr. Dana Dykhouse  
Ms. Pat Lebrun  
Mr. Casey Peterson  
Dr. Jim Rankin, ex-officio member  
Mr. Ron Wheeler  
Dr. Robert Wilson

1B. Introduce Dr. James Rankin

1C. Introduce Guests

1D. Reminder request for public comment form

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**South Dakota Science and Technology Authority  
June 28, 2018 Board Meeting**

**Agenda Item: 02**

**Approve Agenda—Chairperson Casey Peterson**

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Attached is the SDSTA Board agenda for the June 28, 2018 meeting.

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**Recommended Action:**

*Motion to approve agenda as presented.*

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**DRAFT AGENDA**  
**South Dakota Science and Technology Authority**  
**630 East Summit Street, Lead, South Dakota**  
**Meeting of the Board of Directors**  
**Thursday, June 28, 2018 at 8:00 AM (MT)**

**\*\*Yates Education & Outreach Conference Room\*\***

*Public (Open) Session: 1-866-740-1260, Access Code: 7228650, [www.readytalk.com](http://www.readytalk.com)*

SDSTA Mission: *To advance compelling underground, multidisciplinary research in a safe work environment and to inspire and educate through science, technology and engineering.*

<b>Title</b>	<b>Report</b>	<b>Recommendations</b>
1. Call to Order A. Call Roll B. Introduce Dr. James Rankin C. Introduce Guests D. Reminder Request for Public Comment Form	-- Chair Casey Peterson	<i>Informational</i>
2. Approve Agenda	-- Chair Casey Peterson	Motion to approve agenda
3. Approve Minutes	-- Chair Casey Peterson	<i>Motion to approve the March 29 and May 1, 2018 minutes</i>
4. Conflicts Disclosure	-- Mr. Tim Engel	
5. Waiver Under SDCL CH. 3-23	-- Mr. Tim Engel	<i>Grant waiver or decline to grant waiver</i>
6. State Board of Internal Controls Update	-- Mr. Tim Engel	<i>Informational</i>
7. Audit Committee A. Annual appointment of members B. Annual review of Audit Charter	-- Chair Casey Peterson	<i>Annual appointment of committee members and review of Charter per Audit Charter dated June 19, 2014</i>
8. Financial Report A. Financial Summaries B. FY2019 Budget	-- Mr. Mike Headley -- Ms. Nancy Geary -- Ms. Nancy Geary	<i>8A. Motion to accept financial report as presented</i> <i>8B. Motion to approve FY2019 budget as presented</i>
9. Report from Executive Director A. SDSTA Quarterly Update B. Declaration of Surplus-misc items C. SD National Guard Update D. E&O Update and Davis Bahcall Scholar Introductions	-- Mr. Mike Headley -- Mr. Mike Headley -- Mr. Mike Headley -- Ms. Michele Baumann -- Dr. June Apaza and Dr. Cindy Anderson	<i>Informational</i> <i>Informational; reference board packet</i> <i>Presentation</i> <i>Presentation (DB Scholars to arrive on-site at 10AM)</i> <i>Motion to accept executive director's report</i>
10. Approval of Lease for City of Lead Maintenance Shop	-- Mr. Mike Headley	<i>Motion to approve the Lease as presented, to authorize the Chairperson, in consultation with the Executive Director and Legal Counsel, to negotiate the final</i>

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<b>Title</b>	<b>Report</b>	<b>Recommendations</b>
		<i>terms of the Lease, and to authorize the Chairperson to execute the final version of the Lease.</i>
11. Approval of FY2019 Office of Risk Management Intergovernmental Agreement	-- Mr. Mike Headley	<i>Motion to approve FY2019 Intergovernmental Agreement between the Bureau of Administration, Office of Risk Management of the State of SD and SDSTA and authorize SDSTA Executive Director to sign agreement</i>
12. SDSTA Policies and Procedures	-- Mr. Mike Headley	
A. Annual Review of P&P		<i>12A. Motion to approve new and updated SDSTA policies and procedures as presented</i>
B. Annual Statements affirming compliance with Financial Conflict of Interest Policy		<i>12B. Each board member is to sign a copy of the financial conflict of interest statement</i>
13. Executive Session (closed meeting)	-- Chair Casey Peterson	<i>Motion to enter executive session to discuss personnel matters and to consult with legal counsel concerning contractual matters</i>
14. Report from Executive Session	-- Chair Casey Peterson	<i>Motion to accept executive session report</i>
15. Motion to Approve Memorandum of Understanding	-- Mr. Mike Headley	<i>Motion to approve Memorandum of Understanding with Fermi Research Alliance, LLC, and to authorize the Chairperson, in consultation with the Executive Director and Legal Counsel, to finalize the terms of the MOU and for the Chairperson to sign it.</i>
16. Report from Nominating Committee	-- Mr. Dana Dykhouse	<i>Reference nominating committee minutes in board packet</i>
17. Election of Officers	-- Chair Casey Peterson	<i>Motion to accept the report from the nominating committee and to elect the slate of officers as discussed (follow procedure adopted August 2008)</i>
18. Confirm date & time of next meeting	-- Chair Casey Peterson	<i>Tuesday, Sep 18, 2018 at 8:00am (MT)</i>
19. Public Comments		
20. Board Comments		
21. Adjourn	-- Chair Casey Peterson	<i>Motion to adjourn</i>

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**Meeting of the Board of Directors  
Thursday, June 28, 2018**

**SDSTA Board Member Terms of Service, Committees and Schedule**

<b>Board Members and Terms of Service</b>			
	<b>Board Members</b>	<b>Appointed</b>	<b>Term Expires</b>
1.	Dr. Ani Aprahamian	Re-appointed December 10, 2015	December 9, 2021
2.	Mr. Paul Christen	Re-appointed August 5, 2016	August 8, 2022
3.	Mr. Dana Dykhouse, Vice-Chair	Re-appointed August 1, 2014	August 14, 2020
4.	Ms. Patricia Lebrun, Secretary-Treasurer	Re-appointed August 5, 2016	August 8, 2022
5.	Mr. Casey Peterson, Chair	Re-appointed August 25, 2015	August 8, 2021
6.	Mr. Ron Wheeler, Vice-Chair	Re-appointed April 10, 2014	April 9, 2020
7.	Dr. Robert Wilson	August 24, 2015	August 8, 2021
8.	Dr. James Rankin, <i>ex-officio member</i>	SDSM&T President as of Jan 8, 2018	
<b>Committees and Members (2017-2018)</b>			
	Audit Committee Members:	Nominating Committee Members:	
	➤ Pat Lebrun-Chair	➤ Ani Aprahamian	
	➤ Paul Christen	➤ Dana Dykhouse	
	➤ Casey Peterson, ex-officio		
<b>2018 Board Schedule</b>			
	Thursday, March 29, 2018	8:00 am (MT)	E&O Bldg
	Thursday, June 28, 2018	8:00 am (MT)	E&O Bldg
	Tuesday, September 18, 2018	8:00 am (MT)	E&O Bldg
	Thursday, December 13, 2018	9:00 am (MT)	E&O Bldg, lunch

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**Approve Minutes—Chairperson Casey Peterson**

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Attached are the SDSTA Board Minutes for the following meetings:

- March 29, 2018
- May 1, 2018 (telephonic)

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**Recommended Action:**

*Motion to approve the Minutes of the March 29 and May 1, 2018 meetings as presented.*

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**South Dakota Science and Technology Authority Board of Directors**  
**Meeting Minutes**  
**Thursday, March 29, 2018**  
**Lead, South Dakota**

The Board of Directors of the South Dakota Science and Technology Authority (SDSTA) convened at 8:06AM Mountain Time (MT) on Thursday, March 29 in the Education and Outreach (E&O) Building Conference Room at the South Dakota Science and Technology Authority, 630 East Summit Street, Lead, South Dakota.

**MEMBERS OF THE BOARD IN ATTENDANCE**

Mr. Paul Christen (by phone)  
Vice Chairperson Dana Dykhouse (in person)  
Secretary/Treasurer Patricia Lebrun (by phone)  
Chairperson Casey Peterson (in person)  
Dr. James Rankin, ex-officio (by phone)  
Vice Chairperson Ron Wheeler (in person)  
Dr. Robert Wilson (by phone)

**MEMBERS OF THE BOARD ABSENT**

Dr. Ani Aprahamian

**SDSTA STAFF**

Mr. Tim Engel, Legal Counsel  
Ms. Nancy Geary, Chief Financial Officer  
Mr. Mike Headley, Executive Director  
Dr. Jaret Heise, Science Director  
Ms. Sharon Hemmingson, Business Services and Contracts Manager  
Mr. Larry Jaudon, Environment, Safety and Health Director  
Ms. Mandy Knight, Administrative Services Manager  
Mr. KC Russell, Cultural Diversity Coordinator

**ALSO PRESENT DURING ALL OR PART OF THE MEETING**

Dr. June Apaza, Education and Outreach Director (BHSU/joined by phone)  
Ms. Donna Job, Sanford Lab Homestake Visitor Center Executive Director  
Dr. Peggy Norris, Education and Outreach Deputy Director (BHSU)  
Mr. Alex Portal, Black Hills Pioneer Journalist  
Dr. Ben Sayler, Sanford Science Education Center Co-Director (BHSU/joined by phone)

**ITEM 1. CALL TO ORDER**

Vice-Chairperson Ron Wheeler called the meeting to order at 8:06 AM (MT). He announced that Chairperson Casey Peterson will be joining the meeting in person shortly and began the meeting. Roll call was held. Attendees present in person included Mr. Dana Dykhouse and Mr. Ron Wheeler; and by telephone included Mr. Paul Christen, Ms. Pat Lebrun, Dr. James Rankin and Dr. Robert Wilson. Dr. Ani Aprahamian was absent. Vice-Chairperson Wheeler declared that a quorum was present.

Vice-Chairperson Wheeler then asked audience members to introduce themselves.

## **ITEM 2. APPROVE AGENDA**

Vice-Chairperson Wheeler asked if there were any modifications to the agenda and hearing none asked for a motion to approve the agenda.

*Motion by Mr. Dykhouse and second by Mr. Christen to approve the agenda as presented. Motion passed unanimously on a roll call vote.*

## **ITEM 3. APPROVE MINUTES**

Vice-Chairperson Wheeler asked for any corrections to the Minutes of the December 14, 2017 meeting. There were none.

*Motion by Mr. Dykhouse and second by Ms. Lebrun to approve the Minutes of the December 14, 2017 meeting as presented. Motion passed unanimously on a roll call vote.*

*Chairperson Peterson joined the meeting in person at 8:09am.*

*Vice-Chairperson Wheeler yielded the chair to Chairperson Peterson.*

## **ITEM 4. CONFLICT OF INTEREST DISCLOSURE**

SDSTA Legal Counsel Mr. Tim Engel said as at several past meetings, this is a chance for any member of the board, who feels they have anything that might be construed to be a conflict of interest, to disclose it. Hearing none, Mr. Engel announced there are no conflict disclosures for this meeting.

## **ITEM 5. DISCLOSURES AND WAIVER UNDER SDCL CH. 3-23**

Mr. Engel said there were no requests for waivers presented so there are none to act on today.

## **ITEM 6. CODE OF CONDUCT**

Mr. Engel said the Board of Internal Control has been working on a Code of Conduct for board members. Initially, they had adopted a resolution that the relevant provisions of the Bureau of Human Resources Code of Conduct should apply to Boards and Commissions. Based upon that resolution, SDSTA drafted a Code of Conduct that the SDSTA Board has adopted. The Board of Internal Control has been working on an updated Code of Conduct since then that may be more suitable for boards like this one. It has gone through several iterations. Mr. Engel said he had one concern with the most recent version and presented testimony about that concern at the March Board of Internal Control meeting. The Board of Internal Control did not take action at that time. If the proposed change is adopted, Mr. Engel said it will likely not result in any changes in SDSTA processes or procedures. He said he anticipates action on this subject at the June board meeting.

## **ITEM 7. 2018 LEGISLATIVE UPDATE**

Mr. Engel said SDSTA designated two lobbyists to keep an eye on legislation that could affect the SDSTA and, if necessary, testify. As usual, this year there was a hearing before the Joint Appropriations Committee. Mr. Headley provided a presentation remotely to the committee and it went well.

Mr. Engel said he watched a variety of bills over the course of the 2018 Legislative Session which included subject matters such as open meetings, Historic Preservation and placing a moratorium on extraction on minerals in the Black Hills. He said there were two House Bills (HB) that could affect the SDSTA: HB1161—update to the International Building Code, and HB1172—require Boards and Commissions to allow time for public comment (where on the agenda and how much time is at the discretion of the Chairperson) both of which go into effect July 1, 2018. Mr. Engel noted a public comment item is included on today's SDSTA Board agenda. He said Senate Bill (SB) 100, relating to federal grants, audits and disclosure of audits, will also have some impact on SDSTA. It requires audits

to be posted to a website and increases some document retention periods. Mr. Engel said he had discussed this earlier with SDSTA staff and concluded that it would not be problematic.

Chairperson Peterson asked what the extended retention period for documents is and Mr. Engel said he would confirm and update the board.

Chairperson Peterson asked if the board had any further questions. There were none.

## **ITEM 8. AUDIT COMMITTEE REPORT**

**ITEM 8A.** Ms. Lebrun said the board had received and discussed the Audit Report Fiscal Year Ended June 30, 2017 in detail at the December 14 meeting and said it is a clean report with no non-compliance and no discrepancies (no findings). She submitted the report for acceptance.

*Motion by Ms. Lebrun and second by Mr. Wheeler to accept the audit report fiscal year ended June 30, 2017 as presented. Motion passed unanimously on a roll call vote.*

Chairperson Peterson gave kudos to SDSTA Chief Financial Officer Ms. Nancy Geary and her team for their work.

**ITEM 8B.** Ms. Lebrun said this is a discussion as to whether or not the board should undertake an audit of the SDSTA internal control. It is not required, but the Audit Committee feels it prudent to have an audit so the SDSTA has a benchmark going forward. In the interest of being certain that the SDSTA is well within the parameters that it needs to be, she made a motion to request an internal control audit be completed sometime in the fiscal year.

Dr. Wilson asked how long an internal audit would take as well as the financial impact? Ms. Geary said she did not know the cost but the SDSTA's annual state audit cost is approximately \$13,000.

Ms. Geary requested the internal controls audit not start until after the annual state audit in the fall. Ms. Lebrun and Chairperson Peterson agreed that the SDSTA may have to hire an independent firm unrelated to the state audit.

Mr. Engel proposed a substitute motion for an audit to be completed by the end of FY2019, with a cost not to exceed \$10,000.

Ms. Lebrun asked the SDSTA to request estimates for the cost of the internal controls audit and Chairperson Peterson agreed. He asked if Ms. Lebrun would withdraw her original motion and she replied yes. Staff will provide cost estimates at the June meeting.

Dr. Wilson asked the impact this will have on SDSTA staff time and the value of the audit for the money being spent. Chairperson Peterson said the internal control audit will give the board suggestions on any lack of or weak controls SDSTA may have and provide a benchmark (especially with an increase in federal funds going forward); it will give assurance to outside parties that the SDSTA has done its due diligence. This type of audit is not something that is done every year.

Mr. Christen agreed and said the SDSTA absolutely needs to do this. He said the first audit will take the longest time. Ms. Lebrun concurred and said it is prudent to do this.

Chairperson Peterson thanked the Audit Committee for their work.

## **ITEM 9. FINANCIAL REPORT**

Ms. Geary began her report noting that since the last board meeting, the deep well pump lease and the asset have been removed from the Balance Sheet. She said at month-end, the SURF Services contract through Fermilab for Operations is slightly over budget due to payroll. She then asked if there were any questions on the February financials. There were none.

*Motion by Mr. Wheeler and second by Mr. Dykhouse to accept the financial report as presented. Motion passed unanimously by roll call vote.*

## **ITEM 10. REPORT FROM THE EXECUTIVE DIRECTOR**

### **ITEM 10A. SDSTA Update**

Mr. Headley said he would like to move items out of order in his report and request SDSTA Science Director Dr. Jaret Heise provide an update before discussing the Declaration of Surplus. Mr. Headley then proceeded with a slide presentation and discussed safety performance and said there was one recordable injury in the last six months. He said things are trending in a good direction and SDSTA is seeing fewer injuries onsite. He said new Environment, Safety and Health (ESH) Director Mr. Larry Jaudon has been with the SDSTA for a few months now and is doing a wonderful job integrating the team.

He said the SDSTA is spending a great deal of time reorganizing and updating the ESH Manual and has put a lot of work into the chapters dealing with work planning and controls as well as facility access.

A site-wide safety inspection was recently completed jointly with Fermilab and 285 action items were generated. These items are being prioritized by size and cost and an implementation schedule will be generated.

Mr. Headley said the SDSTA has been working with Alaris, a company that provides occupational nurse and medical support; a full-time occupational nurse has been hired and will start on site in April.

Mr. Headley provided status updates on 1) Federal funding for FY2018 Appropriation—SURF \$15M, LBNF/DUNE \$95M, LZ \$14.1M, and he said the FY2019 President's budget request includes \$114M for the Long-Baseline Neutrino Facility/Deep Underground Neutrino Experiment (LBNF/DUNE). Mr. Wheeler interjected that he and Mr. Headley have planned a trip to Washington D.C. the end of April to discuss the FY2019 budget. Mr. Headley said it is clear that the support on the Hill has been tremendous and the work Mr. Ledford and his team are doing is great.

He then discussed 2) LBNF Construction—installing safety mechanism on the Ross cage, and Kiewit Alberici Joint Venture (KAJV) has been working with Fermilab on the pre-excavation work package. 3) LZ Construction—Davis Campus construction began in January and will be completed in May; xenon gas procurement remains on schedule (received 1,060k of 1,500K liters).

Mr. Wheeler asked if SDSTA has received all funds for xenon from the foundations? Ms. Geary replied no and said SDSTA is awaiting an April receipt of \$1M from the University of South Dakota Foundation. She said SDSTA does not need any funds at this time from the South Dakota State University (SDSU) Foundation.

Chairperson Peterson noticed on the operational budget that only 24% of the xenon has been delivered. Ms. Geary said the delivery is an intentional delay and will not impact the LZ project schedule. SDSTA Business Services Manager Ms. Sharon Hemmingson said she will provide the schedule to the board.

Mr. Headley said the Cultural Advisory Committee (CAC) met on February 28. The SDSTA received positive feedback from the committee in regard to the new Cultural Awareness video. It has been included as mandatory training for all employees, researchers, contractors and visitors.

He said Sanford Lab Homestake Visitor Center Executive Director Ms. Donna Job and the team have added Native American items for purchase and they have been a nice addition to the gift shop.

He said SDSTA Cultural Diversity Coordinator Mr. KC Russell has recruited Cheyenne River Sioux tribal member Adonnis Martinez, a civil engineering graduate at South Dakota School of Mines and Technology (SDSM&T), as a member of the CAC. Mr. Russell continues to be involved with



STARBASE and the West River program has successfully piloted a STARBASE 2.0 (for advance science education past the base 5<sup>th</sup> grade program of STARBASE).

In regard to Education and Outreach (E&O), Mr. Headley briefly discussed statistics relating to curriculum units, classroom presentations and field trips. He also showed a slide on recent student comments and said the feedback from others continue to be really strong. He said Dr. Apaza and the E&O team are doing a great job getting this information out to the state.

Mr. Headley said there are three curriculum units in the works: 1) “It’s Electric” is being piloted now, 2) “Argon-Transfer Challenge” will be released later this spring and 3) “As a Matter of Fact!” will be rolled out later this fall.

Mr. Wheeler complimented the E&O staff for the work they are doing and outreach to students across the state.

In regard to a previous question concerning the xenon delivery schedule, Ms. Sharon Hemmingson recited the following: FY2018/\$275,000, FY2019/\$1,925,000 and FY2020/\$220,000.

### **ITEM 10C. Science Update**

Next, Mr. Headley introduced SDSTA Science Director Dr. Jaret Heise who gave a slide presentation on current experiments. Dr. Heise provided an update on 1. MAJORANA DEMONSTRATOR (MJD)—Operations, Electroforming, Results (including the March 26 press release) and Future. 2. Large Underground Xenon-ZEPLIN (LZ)—General, Surface, Underground. 3. Compact Accelerator for Performing Astrophysical Research (CASPAR)—Commissioning and Operations. 4. Black Hills State University Underground Campus (BHUC)—General Operations, Berkeley Low Background Facility (manages several low-background counters and LZ SOLO), University of South Dakota/Alabama (Ge-IV), USD/University of North Carolina/SDSM&T (MALBEK); SENSEI (low mass dark matter experiment, not a low-background counter, but interested in locating at Sanford Underground Research Facility).

Dr. Heise concluded with selected other research efforts and gave an update on the following: State efforts to support research (new SD Governor’s Centers and NSF EPSCoR proposal have Sanford Underground Research Facility connection, SIGMA-V (project funded by DOE Enhanced Geothermal Systems based on KISMET-Permeability (k) and Induced Seismicity Management for Energy Technologies), GEOX (2000L, 4100L, 4850L), NASA Astrobiology Institute and other biology on the different levels underground (800L, 1700L, 2000L, 4100L, 4850L); Others.

### **ITEM 10B. Declaration of Surplus Property**

Mr. Headley said the declaration of surplus property is for three Tsurumi pumps that have failed, and the cost and repair exceeds the value of the pumps. This brand of pump is not the best choice going forward as SDSTA has had better reliability with a different brand of pump. Mr. Headley concluded his report.

Chairperson Peterson then requested a motion to accept the Executive Director’s report.

*Motion by Mr. Wheeler and second by Mr. Christen to accept the executive director’s report as presented. Motion passed unanimously by roll call vote.*

### **ITEM 11. NEW DESIGN OF THE SDSTA POLICIES AND PROCEDURES/EMPLOYEE HANDBOOK**

Mr. Headley said the SDSTA Policies and Procedures Manual has been redesigned and thanked Administrative Services Manager Ms. Mandy Knight and Creative Services Developer Mr. Matt Kapust for their time and effort towards the manual. Chairperson Peterson said he was impressed with the completeness of the manual and the professional look.

## **ITEM 12. UPDATE ON BUSINESS ADVISORY COUNCIL**

Mr. Wheeler said that a SDSTA Business Advisory Council was discussed over a year ago.

*Dr. Rankin left the meeting by phone at 9:15am.*

He reminded the board that the purpose of the council is to further economic development in South Dakota and during the last dialogue it was discussed that a group of high-level participants should be formed that will be able to define what opportunities for economic development exist during LBNF construction and operation. He said the primary players that will be able to define the suppliers, contractors and services required include Fermilab project management, the construction manager for LBNF and the experiment itself. He said Fermilab hired a logistics coordinator who began to work with contractors in the local area, but the coordinator was recently released from employment. Fermilab plans to backfill the position and the new logistics coordinator would be one of the members envisioned participating in a future business advisory council.

## **ITEM 13. EXECUTIVE SESSION**

*Motion by Mr. Dykhouse and second by Mr. Wheeler to enter into executive session to discuss personnel matters and to consult with legal counsel concerning contractual matters. Motion passed unanimously by roll call vote.*

*The board recessed at 9:17am for a break, followed by Executive Session and then reconvened at 10:37am.*

## **ITEM 14. REPORT FROM EXECUTIVE SESSION**

Chairperson Peterson reported that the board consulted with legal counsel concerning contractual and legal matters and personnel matters. No action was taken.

*Motion by Mr. Christen and second by Ms. Lebrun to approve the executive session report. Motion passed by a roll call vote of five in favor and none against.*

## **ITEM 15. EXECUTIVE COMPENSATION ADJUSTMENT**

Mr. Wheeler reported that the SDSTA Executive Director Headley's compensation has not been changed in a number of years while the rest of the SDSTA staff have received a 6% increase over the last three years. Mr. Headley clarified that staff received a 2% increase each year for the last three years. Mr. Wheeler said he would like to recommend a compensation adjustment.

*Motion by Vice-Chairperson Dykhouse and second by Mr. Christen to raise the SDSTA Executive Director's compensation by 3 percent, effective March 24, 2018 (the start of the payroll period). Motion passed unanimously by roll call vote.*

*Dr. Wilson rejoined the meeting by phone at 10:40am.*

Dr. Wilson said he was supportive of the increase and Mr. Headley has done a tremendous job. He said he hears the same thing about Mr. Headley when he visits Fermilab. Chairperson Peterson concurred.

Mr. Headley thanked the board. Mr. Wheeler stated that the board will back Mr. Headley with decisions relating to SDSTA and Mr. Headley replied he appreciated their support.

## **ITEM 16. SELECT NOMINATING COMMITTEE**

Chairman Peterson said he had asked Dr. Aprahamian and Mr. Dykhouse to serve on the Nominating Committee again and they have agreed. Mr. Dykhouse said he will set up a teleconference with Dr. Aprahamian in May and have a slate ready for the June board meeting. Chairperson Peterson reminded the board that the annual election of officers will be held at the June meeting.

## **ITEM 17. CONFIRM 2018 BOARD SCHEDULE**

Chairperson Peterson asked if there were any concerns with the board meeting scheduled for Thursday, June 28, 2018 at 8:00 A.M. (MT). There were none.

## **ITEM 18. PUBLIC COMMENTS**

Chairperson Peterson asked if there were any questions or comments from the public. There were none.

## **ITEM 19. BOARD COMMENTS**

Dr. Wilson said this was another successful quarter for the lab. The FY2018 federal budget passing with strong support for LBNF/DUNE is great news and goes a long way with our international partners who have been concerned for some time about the U.S. delay in passing a budget.

Ms. Lebrun reiterated Dr. Wilson's comments and said this is a great project. Ms. Lebrun welcomed Dr. Rankin to the board and hopes he finds Sanford Lab interesting, informative and of high value not only to the country and state but to the SDSM&T. She also complimented the staff and thanked them for upgrading the technology for individuals that call in to meetings (a great improvement from a few years ago). Ms. Lebrun said she attended the Cultural Advisory Committee meeting last month and it is going well. She encouraged board members to watch the Cultural Awareness video as it is stunningly beautiful as well as informative. She thanked everyone and wished them a Happy Easter.

Mr. Christen said he is excited about the lab and happy about the federal budget passing. He said Mr. Headley and the SDSTA staff are doing a terrific job. He said Dr. Heise's presentation on current experiments at the lab is a good reminder of what is going on and he is pleased with all the activity. Mr. Christen said he is looking forward to seeing everyone in June.

Mr. Wheeler reiterated his earlier comments expressing his appreciation for Mr. Headley's great work as well as the entire staff. He also expressed his appreciation for all the work Mr. Engel is doing for the SDSTA.

Mr. Dykhouse said he also appreciated the science update by Dr. Heise. He said the audit of the SDSTA controls is appropriate and needs to be done. The SDSTA will continue to grow and it will give confidence to all parties involved. Lastly, he said there will be turnover this year with the Governor and several legislators that have been long-time supporters of Sanford Lab. We would be remiss if we didn't take every opportunity to educate those potential incoming legislators and gubernatorial candidates of what is going on at Sanford Lab and hopefully gain their support.

Mr. Headley thanked Ms. Knight for organizing and supporting the meeting as well recognized the great work of the SDSTA team. He recognized the board, Mr. Engel and Lewis-Burke Associates for all their support. He said the SDSTA has an amazing team and although there are challenges to get LBNF/DUNE off the ground, the SDSTA will and is doing absolutely all that they can to assist.

Mr. Tim Engel thanked the board for the kind words and the opportunity. He reiterated the appreciation from Mr. Headley and the SDSTA team and said the team is very responsive when he requests items and he tries to reciprocate.

Chairperson Peterson then asked Mr. Headley to write a letter of appreciation (perhaps preliminary) to thank Governor Dugaard and those outgoing legislators for their huge support. Mr. Headley said he would be happy to write a letter. Chairperson Peterson said "team SURF" is awesome and recognized them including Mr. Engel for their great work. He said he would like to write a letter to thank Mr. Ledford and his team for a huge gap that they helped bridge. In conclusion, he thanked Mr. Headley and Mr. Wheeler for their work.

## **ITEM 15. ADJOURN**

Chairperson Peterson asked if anyone had any other questions or comments, then called for a motion to adjourn.

*Motion by Mr. Dykhouse and second by Mr. Wheeler to adjourn. Motion passed unanimously by roll call vote.*

**Meeting adjourned at 10:50AM.**

**South Dakota Science and Technology Authority Board of Directors  
Special Telephonic Meeting Minutes  
Tuesday, May 1, 2018  
Lead, South Dakota**

The Board of Directors of the South Dakota Science and Technology Authority (SDSTA) convened at 9:02 a.m. Mountain Time (MT) on Tuesday, May 1, 2018, via teleconference. Listening posts for the public were established at the office of the SDSTA at 630 E. Summit Street, Lead, South Dakota, and at the Dolly-Reed Plaza in the Treehouse conference room, 711 East Wells Avenue, Pierre, South Dakota.

**MEMBERS OF THE BOARD IN ATTENDANCE BY TELEPHONE**

Mr. Paul Christen  
Vice-Chairperson Dana Dykhouse  
Secretary/Treasurer Patricia Lebrun  
Chairperson Casey Peterson  
Vice-Chairperson Ron Wheeler  
Dr. Robert Wilson

**MEMBERS OF THE BOARD ABSENT**

Dr. Ani Aprahamian  
Dr. Jim Rankin

**SDSTA STAFF IN ATTENDANCE**

Mr. Tim Engel, Legal Counsel (by phone)  
Mr. Mike Headley, Executive Director  
Ms. Mandy Knight, Administrative Services Manager  
Ms. Constance Walter, Communications Director

**ITEM 1. CALL TO ORDER**

Chair Peterson called the meeting to order at 9:02 a.m. (MT). Chair Peterson declared a quorum was present, consisting of board members Mr. Christen, Vice-Chair Dykhouse, Ms. Lebrun, Chairperson Peterson and Mr. Ron Wheeler. Those absent were Dr. Aprahamian and Dr. Jim Rankin.

Chair Casey Peterson asked participants at the listening posts in Pierre and Lead to identify themselves. There was no response at the Pierre listening post. SDSTA staff listed above were present at the Lead office, except SDSTA Legal Counsel Mr. Tim Engel who joined by phone.

**ITEM 2. APPROVE AGENDA**

Chair Peterson asked for a motion to approve the agenda.

*Dr. Wilson joined the meeting at 9:03 a.m.*

*Motion by Ms. Lebrun and second by Mr. Christen to approve the agenda as presented. By roll call vote, the motion passed unanimously.*

**ITEM 3. EXECUTIVE SESSION**

*Motion by Mr. Dykhouse and second by Mr. Wheeler to enter into executive session to discuss personnel matters and to consult with legal counsel concerning contractual matters. Motion passed unanimously by roll call vote.*

*The board entered into Executive Session at 9:05 a.m. and reconvened in open session at 9:28 a.m.*

#### **ITEM 4. REPORT FROM EXECUTIVE SESSION**

Roll call was taken, and Chair Peterson declared a quorum was present.

Chair Peterson reported that the board consulted with legal counsel concerning contractual and legal matters. No action was taken.

*Motion by Ms. Lebrun and second by Mr. Christen to approve the executive session report. By roll call vote, the motion passed unanimously.*

#### **ITEM 5. APPROVAL TO BIND INSURANCE, APPROVAL OF PREMIUM FINANCING PLAN AND APPROVAL OF FUTURE FUND GRANT AGREEMENT**

SDSTA Legal Counsel Mr. Tim Engel said as the members of the board will recall, a condition of the Property Donation Agreement (PDA) is SDSTA must maintain commercial general liability (CGL) coverage insuring all of the SDSTA activities at the facility with a limit of not less than \$75 million. With the imminent addition of the Long Baseline Neutrino Experiment/Deep Underground Neutrino Experiment (LBNF/DUNE), SDSTA Executive Director Mr. Mike Headley and Mr. Engel have been working to find ways to insure the risks associated with that project to maintain compliance with the PDA. The captive's actuarial report indicates it would cost approximately \$1 million/year for 5 years to take on the new risks; accordingly, coverage through the captive is not cost effective.

Mr. Headley and Mr. Engel also worked with the South Dakota Office of Risk Management to seek commercial coverage for LBNF/DUNE only, which was determined it is more cost effective. The proposed single pay premium for a 5-year owner's interest CGL policy for LBNF/DUNE is approximately \$1.3 million, which is cheaper than the captive.

Mr. Headley and Mr. Engel also looked at insuring everything commercially. It is not cost effective and would cost approximately \$560,000/year over 5 years. Alternately, the proposal to have the captive insure non-LBNF/DUNE exposures plus this CGL policy financed over 5 years is approximately \$433,000/year.

In regard to the CGL coverage, Mr. Engel said he and Mr. Headley are proposing the captive will issue an exclusion, and it will no longer cover LBNF/DUNE-related exposures as of August 1, 2018. Also, on August 1, 2018, a separate commercial CGL policy will insure the LBNF/DUNE-related exposures. Hence, there will be two "towers". One "tower" (commercial insurance) will cover LBNF/DUNE-related risks and the other tower (the captive) will cover all other SDSTA-related risks. Each tower will cap out at \$75 million.

Mr. Engel said the other coverages needed are the Directors and Officers (D&O), Errors and Omissions (E&O) and Employment Practices Liability (EPL). He said the captive's actuarial report indicates the risk for EPL claims will increase due to the large number of new individuals on site during LBNF/DUNE construction. Mr. Headley and Mr. Engel again looked at the captive to insure everything for those types of risks, and it is not cost effective—it is less expensive to insure those risks commercially. The premium is approximately \$32,000/year. Hence, purchasing this new commercial insurance will cover LBNF/DUNE-related risks only and the captive tower will cover all other SDSTA-related risks related to D&O, E&O and EPL.

Mr. Engel said rather than pay the \$1.3 million premium in one lump sum, there is a proposal to finance it over 5 years. The first payment is due by August 1, 2018 in the amount of \$350,000. The remaining annual payments are due April 1 of each year in the amount of \$258,787.01/year. If the policy is



canceled, then payments will not be owed unless there is a claim prior to cancelation. If that is the case, the premium payment will then need to be addressed.

Mr. Engel said the last issue is Governor Daugaard has agreed to provide a Future Fund Grant to make the first-year premium payment on the CGL policy as well as pay for one year of D&O, E&O and EPL coverages. The Future Fund grant agreement is contingent upon the grant funds being the money of last resort. The Governor understands the SDSTA will continue to work with Fermi Research Alliance LLC (FRA) and Department of Energy (DOE) to cover the costs. If this happens, there would be no Future Fund Grant needed and the Future Fund agreement would be canceled.

In conclusion, Mr. Engel suggested a motion to authorize the chairperson or executive director to bind commercial general liability coverage and Directors and Officers, Errors and Omissions, and Employment Practices Liability coverage by the end of the day today with commercial carriers as presented. Mr. Engel also suggested the motion include authorization for the chairperson or executive director to execute the financing agreement, and to execute the Future Fund grant agreement.

*Motion by Mr. Wheeler and second by Ms. Lebrun to authorize the chairperson or executive director to bind commercial general liability coverage and Directors and Officers, Errors and Omissions, and Employment Practices Liability coverage with commercial carriers as presented, to execute the financing agreement and to execute the Future Fund grant agreement.*

Chair Peterson asked if there were further questions or comments.

Dr. Wilson asked if the 5-year period for insurance is the total construction time for LBNF/DUNE and what happens if construction is delayed or takes longer? Chair Peterson said it is for the construction time and if construction takes longer, the insurance would need to be extended and most likely go out for quotes again.

Mr. Headley concurred with Chair Peterson and noted that the insurance was targeted to cover the civil construction period for LBNF. He said there has been discussions with Fermilab about an insurance approach for the DUNE installation and operations period. That insurance would likely need to be structured differently than what has been outlined here.

Mr. Engel said it is possible to extend these coverages, but it would be additional premium and would be contingent on the loss history.

Chair Peterson thanked the Governor, Mr. Engel and Mr. Headley for working on this. He said it is imperative to do this and the SDSTA needs to act now as the insurance premium will increase if it is not bound today. He said he endorsed this motion.

*By roll call vote, the motion passed unanimously.*

## **ITEM 6. PUBLIC COMMENTS**

Chair Peterson asked if there were any questions or comments from the public. There were none.

## **ITEM 7. ADJOURN**

Chair Peterson reminded board members the next regularly scheduled board meeting will be held on Thursday, June 28 at 8:00 a.m. (MT) in the Education and Outreach Building and called for a motion to adjourn.

*Motion by Dr. Wilson and second by Mr. Dykhouse to adjourn. By roll call vote, the motion passed unanimously.*

Meeting adjourned at 9:40 a.m. (MT) on May 1, 2018.

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**Conflict of Interest Disclosure—Mr. Tim Engel**

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**Recommended Action:**  
*Informational.*

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**Waiver Under SDCL CH. 3-23—Mr. Tim Engel**

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**Recommended Action:**

*Motion to grant waiver or decline to grant waiver.*

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**Adopt Board of Internal Controls model Policy—Mr. Tim Engel**

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Attached is the Board of Internal Controls model policy for approval.

See suggested motion below.

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**Recommended Action:**

*Motion to adopt the SDSTA Board of Internal Controls model policy as presented.*

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# **SDSTA Code of Conduct and Conflict of Interest Policy**

## **Adopted June 28, 2018**

The purpose of this code of conduct and conflict of interest policy ("Code") is to establish a set of minimum ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. This Code applies to all appointed and elected members of state authorities, boards, commissions and committees (hereinafter "Boards" and "Board member(s)").

### **A. Conflict of Interest for Board Members**

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

### **B. General Restrictions on Participation in Board Actions**

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board's official actions are administrative, quasi-judicial or quasi-legislative.

A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member's interest or relationship creates a potential to influence the member's impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

Administrative actions involve the day-to-day activities of the Board and include personnel, financing, contracting and other management actions. Most of the administrative official actions of a Board are done through the Board's administrative staff. To the extent Board

members are involved, the conflict of interest concern most frequently arises in the area of state contracting which is addressed in more detail below. If issues arise that are not directly addressed by this Code, the Board member should consult with the attorney for the Board.

"Official action" means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

### **C. Contract Restrictions**

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member's term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General's website at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member's term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: <http://bhr.sd.gov/forms/>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member's own interests and contracts.



## **D. Consequences of Violations of Conflict of Interest Laws**

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30-46.

## **E. Retaliation for Reporting**

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

## **F. Anti-Harassment/Discrimination Policy**

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- Unwelcome physical contact such as kissing, fondling, hugging or touching;
- Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a

sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;

- Swearing, offensive gestures or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- Slurs, jokes, or derogatory remarks, email or other communications relating to race, color, religion, national origin, sex, age or disability; or
- Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

### **G. Confidential Information**

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

### **H. Reporting of Violations**

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

### **I. Existing Policy**

Nothing herein shall act to repeal the SDSTA Financial Conflict of Interest Policy originally adopted February 7, 2007.

*This Code of Conduct and Conflict of Interest Policy was adopted by the State Board of Internal Control pursuant to SDCL § 1-56-6.*

**Appoint Members to Audit Committee—Chairperson Casey Peterson**

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Attached is the Audit Committee Charter dated June 19, 2014.

7A. Annual appointment of committee members per Audit Charter.

7B. Annual review of Audit Charter.

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# **SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY AUDIT COMMITTEE CHARTER**

## **STATEMENT OF MISSION**

The mission of the South Dakota Science and Technology Authority (SDSTA) Audit Committee is to be the pro-active steward for oversight of the financial reporting and disclosure process for SDSTA, including the investigation of claimed breaches of ethics, theft, fraud, embezzlement and reports of whistle-blowers. Our responsibility is to the SDSTA Board of Directors to report independently on the results of the oversight so as to assist in maintaining and enhancing the quality of the financial reporting. The Audit Committee is committed to communication between and among directors, the external auditor and Chief Financial Officer (CFO).

### **A. The Audit Committee has the following responsibilities and duties:**

#### **1. Appointment**

- Annually be appointed by the SDSTA Board of Directors at their annual meeting in June.
- At least one member will be deemed a “financial expert,” as defined by applicable law and regulation.

#### **2. Review**

- Annually review and update this Charter.
- Annually determine the independence of Audit Committee members through a certification by the SDSTA Board of Director’s Chairperson.
- Review the SDSTA’s annual financial statements and any reports or other financial information submitted to or from any governmental body, or the public, including any certification, report, opinion or review rendered by the external auditor or the SDSTA CFO.
- Review any report or memo or other communication from Federal and State regulators and reviewers, and attend as many entrance and exit conferences as possible.

#### **3. External Auditors/CFO/Independent Counsel/Other Advisors**

- The Audit Committee shall have the independent authority to engage any legal counsel or other advisors it deems necessary to carry out its duties.
- Periodically consult with the external auditor out of the presence of management about internal controls and the fullness and accuracy of the company’s financial statements.
- Make the selection, retention, and review the performance of, the external auditor, considering independence and effectiveness and approve the fees paid to the external auditor as well as the proposed fee. On an annual basis, the Audit Committee should review and discuss with the external auditor all significant relationships the external auditor has with the company to determine the auditor’s independence and consider the appropriateness of the non-audit services prior to their engagement.
- Periodically meet with the CFO on the results of exams, and be available to CFO for appropriate communications at any time they desire the meeting.

#### **4. Financial Reporting Process**

- In consultation with the external auditor, review the integrity of the SDSTA’s financial reporting processes.

# **SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY**

## **AUDIT COMMITTEE CHARTER**

- Consider the external auditor's judgments about the quality and appropriateness of the SDSTA's accounting principles, as applied in its financial reports and as promulgated by the Governmental Accounting Standards Board.
- Consider and forward to the SDSTA Board of Directors, if appropriate, recommendations for major changes to the SDSTA's auditing and accounting principles and practices as suggested by the external auditor, management or the CFO.
- Establish regular and separate systems of reporting to the Audit Committee by management and the external auditor regarding any significant judgments made in management's preparation of the financial statements and the Audit Committee's view of each as to appropriateness of such judgments.
- Following completion of the annual audit, review separately with management and the external auditor any significant difficulties encountered during the course of the audit, including any restrictions on the scope of work, or access to required information.
- Review and resolve any significant disagreement among management and the external auditor in connection with the preparation of the financial statements. Review in detail the passed audit adjustments and the materiality levels used by the external auditor, and the impact of Management's estimates used in the financial statement preparation.
- Review with the external auditor and management the extent to which changes or improvements in financial or accounting practices, as approved by the Audit Committee in prior reports or meetings, have been implemented.

### **5. Ethical and Legal Compliance**

- Establish, review and update periodically a Conflict of Interest Policy and ensure that management has established a system to enforce this Policy.
- Review management's monitoring of compliance with the SDSTA's Conflict of Interest Policy, and verify that management has the proper review system in place to ensure that financial statements, reports, and other financial information disseminated to governmental organizations, and the public, satisfy legal requirements.
- Review with SDSTA's retained legal counsel any legal matter that could have a significant impact on the SDSTA's financial statements.
- Periodically review individual committee member education and obtain resources, seminars and materials to keep the level of member's education current.
- Perform any other activities consistent with this Charter, the SDSTA's By-Laws and governing law, as the Audit Committee or the SDSTA Board of Directors deems necessary or appropriate.

### **6. Reporting**

In order to facilitate the proper execution of its duties and responsibilities, the Audit Committee shall conduct its reviews and investigations in a confidential manner. The Audit Committee shall report to the SDSTA Board the results of the Financial Reporting Process, consultations with External Auditors, the CFO or other Advisors, or any other issues they deem important for the SDSTA Board to meet its responsibilities. These reports shall include, but not be limited to, the results of the annual external audit or any internal audit on financial reports or compliance (including difficulties or disagreements encountered, if any, past

# SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY

## AUDIT COMMITTEE CHARTER

adjustments, materiality defined by the auditor, any legal matter having a material impact on the report, management letter comments, etc.), the integrity of the financial reporting system, the appropriateness of the accounting principles applied to the financial reports, the status of internal controls, any suggested change to any of the above systems the Audit Committee thinks should be made, any significant report or communication from any other matter that the Audit Committee deems critical information needed by the SDSTA Board. To the extent permitted by applicable law, the Audit Committee's reports to the Board of Directors shall be delivered in closed session.

The Audit Committee shall strive to provide the Board with the information it needs to manage the reporting and accounting for the SDSTA as well as utilize the reports to manage all of the other risks it faces. These reports will be made when information is received and available. The Annual Schedule below outlines some of the reporting dates anticipated.

### **7. Budget Process**

The Audit Committee will meet with the CFO in March to establish the annual budget for the Audit Committee to cover costs for audit fees, legal fees, consulting fees, continuing education travel and costs and miscellaneous costs.

### **B. Annual Schedule**

The Audit Committee will meet at its discretion but the following is a guideline for business to be conducted during the year:

December-January – Meet with external auditors to discuss preliminary audit findings, letters to management, passed adjustments, materiality, management estimates, and quality and appropriateness of accounting principles.

March-June – Present audit findings, letter of comments and other appropriate information to the SDSTA's Board of Directors at SDSTA annual meeting. Meet to update issues on hiring other outside auditors for review, as deemed necessary, of such areas as EDP, compliance, etc.

September – Request proposal for external audit. Meet with CFO.

October/November/December – Meet with CFO to review any issues regarding the audit. Meet to engage external financial auditor on entrance conference. Review all SDSTA regulators' reports (State and/or Federal). Certify as to committee member's independence.

### **C. Limitations on the Committee's Role:**

While the Audit Committee has the responsibilities and powers as stated above, it is not the Committee's duty to audit the SDSTA's financial statements or to determine that the SDSTA's financial statements are complete and accurate in accordance with generally accepted accounting principles (GAAP), as promulgated by the Governmental Accounting Standards Board. These are the responsibilities of management and the independent auditors.

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**Financial Report—Mr. Mike Headley**

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Financial Report:

8A. Financial Summaries for May 2018, attached.

8B. FY2019 Budgets, attached.

1. FY2019 Budget Summary
2. FY 2019 CAPEX Budget
3. FY2019 SDSTA Budget

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**Recommended Action:**

*8A. Motion to accept the Financial Report as presented.*

*8B. Motion to approve SDSTA fiscal year 2019 budget.*

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# 8A-Financial Summaries, May 2018

REPORT DATE 06/11/18

SOUTH DAKOTA SCIENCE & TECHNOLOGY

12:53

PAGE 0001

DIVISION: ALL

## BALANCE SHEET

### ASSETS

		AS OF 05/31/18
AS OF 05/31/18		
<b>CURRENT ASSETS</b>		
First Interstate Checking	\$	893,895.45
First Interstate Other		10,771.06
		-----
Total in Local Checking		904,666.51
SD Treas: Indemnification		7,500,000.00
SD Treas: Mine Closure		1,415,782.17
SD Treas: Operating		480,685.27
SD Treas: Sanford Gift #2		322,567.97
SD Treas: Experiments		2,935,505.86
		-----
Total with SD Treasurer		12,654,541.27
Billed A/R		2,744,384.24
Unbilled A/R		125,597.98
Other A/R		142,841.67
Inventory - Supplies		2,379,248.40
Inventory - Warehouse		30,566.09
Other Current Assets		423,165.61
		-----
Total Current Assets		19,405,011.77
<b>FIXED ASSETS</b>		
Land, Underground & Other		12,633,473.13
Bldgs & Infrastructure		10,079,478.68
Improvements		63,427,334.26
Computer Equipment		431,565.17
Equipment & Fixtures		10,805,396.09
Accum Depr & Amort		(14,448,176.60)
		-----
Total Fixed Assets		82,929,070.73
<b>OTHER ASSETS</b>		
Work in Process		2,200,262.17
Pension Deferred Outflows		4,174,730.00
Xenon Purchased		5,040,356.11
		-----
Total Other Assets		11,415,348.28
=====		
<b>TOTAL ASSETS</b>	<b>\$</b>	<b>113,749,430.78</b>
=====		

DIVISION: ALL

BALANCE SHEET

LIABILITIES & EQUITY

AS OF  
04/31/18

CURRENT LIABILITIES		
Accounts Payable	\$	1,122,679.30
Other Payables		3,437.06
		-----
Total Accounts Payable		1,126,116.36
Accrued Payroll Liab		1,124,516.45
		-----
Total Current Liabilities		2,250,632.81
OTHER LIABILITIES		
LT Xenon Notes Payable		5,000,000.00
Pension Deferred Inflows		1,698,193.00
		-----
Total Other Liabilities		6,698,193.00
EQUITY		
Restricted: Indemnificati		7,500,000.00
Restricted: Mine Closure		1,415,782.17
Restricted: Sanford Gift2		322,567.97
Restricted: Pension		2,476,537.00
Restricted: Experim. Int.		2,873,584.00
		-----
Total Restricted Funds		14,588,471.14
Investment in Gen FA		82,929,070.73
Unrestricted Funds		7,283,063.10
		-----
Total Equity		104,800,604.97
		=====
TOTAL LIABILITIES & EQUITY	\$	113,749,430.78
		=====

ALL

## STATEMENT OF INCOME

FOR THE PERIOD ENDING 05/31/18

	YR-TO-DATE
	-----
REVENUE	
DOE Subcontracts	\$ 20,335,867.65
NSF/NASA Subcontracts	27,466.19
State Revenue	1,226.96
Contributions & Donations	125,000.00
Checking Interest	1,519.00
Interest Income	116,214.10
	-----
TOTAL REVENUE	20,607,293.90
DIRECT COSTS	
Direct Labor	6,125,514.91
ERT Labor	62,758.22
Board of Directors	7,269.17
Capital Outlay >\$5K	475,753.33
Contractual Svcs	3,492,492.72
Inventory	152,122.04
Supplies	829,559.06
Travel - Domestic	56,080.27
Travel - Foreign	17,967.38
Utilities	1,863,913.13
Other Direct Costs	165,063.56
Unallow/Unbill Costs	309,015.31
	-----
TOTAL DIRECT COSTS	13,557,509.10
INDIRECT COSTS	
Fringe Benefits	3,904,708.29
Overhead	4,384,024.75
	-----
TOTAL INDIRECT COSTS	8,288,733.04
	-----
GROSS PROFIT/LOSS ( )FROM OPERATIONS	(1,238,948.24)
	-----
OTHER INCOME	
Water Treatment	97,965.36
Miscellaneous Income	306,632.94
Other Operating Income	7,567.54
	-----
TOTAL OTHER INCOME	412,165.84
OTHER EXPENSES	
Loss(Gain) on Sale of FA	107,361.46
Reclass Incr Net Assets	(1,851,028.95)
	-----
TOTAL OTHER EXPENSES	(1,743,667.49)
	-----
NET INCOME/LOSS ( )	\$ ===== 916,885.09

DIVISION: ALL

## COMPARATIVE BALANCE SHEET

## ASSETS

	AS OF 05/31/18	AS OF 05/31/17	\$ CHANGE	% CHANGE
<b>CURRENT ASSETS</b>				
First Interstate Checking	\$ 893,895.45	\$ 1,495,058.16	\$ (601,162.71)	-40.21%
First Interstate Other	10,771.06	17,201.34	(6,430.28)	-37.38%
	-----	-----	-----	-----
Total in Local Checking	904,666.51	1,512,259.50	(607,592.99)	-40.18%
SD Treas: Indemnification	7,500,000.00	7,500,000.00	-	0.00%
SD Treas: Mine Closure	1,415,782.17	1,398,522.89	17,259.28	1.23%
SD Treas: Operating	480,685.27	361,693.54	118,991.73	32.90%
SD Treas: Sanford Gift #2	322,567.97	475,512.97	(152,945.00)	-32.16%
SD Treas: Experiments	2,935,505.86	2,382,312.84	2,459,992.89	103.26%
	-----	-----	-----	-----
Total with SD Treasurer	12,654,541.27	12,118,042.24	536,499.03	4.43%
Billed A/R	2,744,384.24	1,737,669.14	1,006,715.10	57.93%
Unbilled A/R	125,597.98	2,917.40	122,680.58	4205.13%
Other A/R	142,841.67	274,036.77	(131,195.10)	-47.87%
Inventory - Supplies	2,379,248.40	2,408,322.74	(29,074.34)	-1.21%
Inventory - Warehouse	30,566.09	33,740.04	(3,173.95)	-9.41%
Other Current Assets	423,165.61	614,155.73	(190,990.12)	-31.10%
	-----	-----	-----	-----
Total Current Assets	19,405,011.77	18,701,143.56	703,868.21	3.76%
<b>FIXED ASSETS</b>				
Land, Underground & Other	12,633,473.13	12,398,635.03	234,838.10	1.89%
Bldgs & Infrastructure	10,079,478.68	9,122,537.68	956,941.00	10.49%
Improvements	63,427,334.26	63,074,266.88	353,067.38	0.56%
Computer Equipment	431,565.17	434,783.19	(3,218.02)	-0.74%
Equipment & Fixtures	10,805,396.09	10,580,972.55	224,423.54	2.12%
Accum Depr & Amort	(14,448,176.60)	(12,715,169.56)	(1,733,007.04)	13.63%
	-----	-----	-----	-----
Total Fixed Assets	82,929,070.73	82,896,025.77	33,044.96	0.04%
<b>OTHER ASSETS</b>				
Work in Process	2,200,262.17	4,703,052.12	(2,502,789.95)	-53.22%
Equipment - Capital Lease	-	221,912.22	(221,912.22)	-100.00%
Pension Deferred Outflows	4,174,730.00	6,287,854.00	(2,113,124.00)	-33.61%
Xenon Purchased	5,040,356.11	1,606,663.11	3,433,693.00	213.72%
	-----	-----	-----	-----
Total Other Assets	11,415,348.28	12,819,481.45	(1,404,133.17)	-10.95%
	=====	=====	=====	=====
<b>TOTAL ASSETS</b>	<b>\$ 113,749,430.78</b>	<b>\$ 114,416,650.78</b>	<b>\$ (667,220.00)</b>	<b>-0.58%</b>
	=====	=====	=====	=====

DIVISION: ALL

COMPARATIVE BALANCE SHEET

LIABILITIES & EQUITY

	AS OF 05/31/18	AS OF 05/31/17	\$ CHANGE	% CHANGE
<b>CURRENT LIABILITIES</b>				
Accounts Payable	\$ 1,122,679.30	\$ 758,790.77	\$ 363,888.53	47.96%
Other Payables	3,437.06	4,308.20	(871.14)	-20.22%
	-----	-----	-----	-----
Total Accounts Payable	1,126,116.36	763,098.97	363,017.39	47.57%
Accrued Payroll Liab	1,124,516.45	1,010,502.03	114,014.42	11.28%
	-----	-----	-----	-----
Total Current Liabilities	2,250,632.81	1,773,601.00	477,031.81	26.90%
<b>OTHER LIABILITIES</b>				
LT Accrued EB/Lease	-	221,912.22	(221,912.22)	-100.00%
LT Xenon Notes	5,000,000.00	4,000,000.00	1,000,000.00	25.00%
Pension Deferred Inflows	1,698,193.00	3,184,802.00	(1,486,609.00)	-46.68%
	-----	-----	-----	-----
Total Other Liabilities	6,698,193.00	7,406,714.22	(708,521.22)	-9.57%
	-----	-----	-----	-----
<b>TOTAL LIABILITIES</b>	<b>8,948,825.81</b>	<b>9,180,315.22</b>	<b>(231,489.41)</b>	<b>-2.52%</b>
<b>EQUITY</b>				
Restricted: Indemnificati	7,500,000.00	7,500,000.00	-	0.00%
Restricted: Mine Closure	1,415,782.17	1,398,522.89	17,259.28	1.23%
Restricted: Sanford Gift2	322,567.97	475,512.97	(152,945.00)	-32.16%
Restricted: Pension	2,476,537.00	3,103,052.00	(626,515.00)	-20.19%
Restricted: Experim. Int.	2,873,584.00	2,382,312.84	491,271.16	20.62%
	-----	-----	-----	-----
Total Restricted Funds	14,588,471.14	14,859,400.70	(270,929.56)	-1.82%
Investment in Gen FA	82,929,070.73	82,896,025.77	33,044.96	0.04%
Unrestricted Funds	7,283,063.10	7,480,909.09	(197,845.99)	-2.64%
	-----	-----	-----	-----
<b>TOTAL EQUITY</b>	<b>104,800,604.97</b>	<b>105,236,335.56</b>	<b>(435,730.59)</b>	<b>-0.41%</b>
	=====	=====	=====	=====
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>\$ 113,749,430.78</b>	<b>\$ 114,416,650.78</b>	<b>\$ (667,220.00)</b>	<b>-0.58%</b>
	=====	=====	=====	=====

## COMPARATIVE STATEMENT OF INCOME

FOR THE PERIOD ENDING 05/31/18

	YEAR TO DATE	PRIOR YEAR TO DATE	\$ CHANGE	% CHANGE
<b>REVENUE</b>				
DOE Subcontracts	\$ 20,335,867.65	\$ 23,362,682.76	\$ (3,026,815.11)	-12.96%
NSF/NASA Subcontracts	27,466.19	20,790.79	6,675.40	32.11%
State Revenue	1,226.96	14,033.68	(12,806.72)	-91.26%
Contributions & Donations	125,000.00	125,000.00	-	0.00%
Checking Interest	1,519.00	1,065.74	453.26	42.53%
Interest Income	116,214.10	125,415.92	(9,201.82)	-7.34%
<b>TOTAL REVENUE</b>	<b>20,607,293.90</b>	<b>23,648,988.89</b>	<b>(3,041,694.99)</b>	<b>-12.86%</b>
<b>DIRECT COSTS</b>				
Direct Labor	6,125,514.91	6,743,684.93	(618,170.02)	-9.17%
ERT Labor	62,758.22	19,422.00	43,336.22	223.13%
Board of Directors	7,269.17	8,088.29	(819.12)	-10.13%
Capital Outlay >\$5K	475,753.33	574,651.00	(98,897.67)	-17.21%
Contractual Svcs	3,492,492.72	5,065,066.39	(1,572,573.67)	-31.05%
Inventory	152,122.04	196,403.01	(44,280.97)	-22.55%
Supplies	829,559.06	1,465,285.62	(635,726.56)	-43.39%
Travel - Domestic	56,080.27	57,075.45	(995.18)	-1.74%
Travel - Foreign	17,967.38	51,587.49	(33,620.11)	-65.17%
Utilities	1,863,913.13	1,977,771.06	(113,857.93)	-5.76%
Other Direct Costs	165,063.56	187,337.16	(22,273.60)	-11.89%
Unallow/Unbill Costs	309,015.31	321,094.82	(12,079.51)	-3.76%
<b>TOTAL DIRECT COSTS</b>	<b>13,557,509.10</b>	<b>16,667,467.22</b>	<b>(3,109,958.12)</b>	<b>-18.66%</b>
<b>INDIRECT COSTS</b>				
Fringe Benefits	3,904,708.29	3,807,664.14	97,044.15	2.55%
Overhead	4,384,024.75	4,661,678.50	(277,653.75)	-5.96%
<b>TOTAL INDIRECT COSTS</b>	<b>8,288,733.04</b>	<b>8,469,342.64</b>	<b>(180,609.60)</b>	<b>-2.13%</b>
<b>GROSS PROFIT/LOSS ( )</b>	<b>(1,238,948.24)</b>	<b>(1,487,820.97)</b>	<b>248,872.73</b>	<b>-16.73%</b>
<b>OTHER INCOME</b>				
Water Treatment	97,965.36	133,638.23	(35,672.87)	-26.69%
Miscellaneous Income	306,632.94	127,438.11	179,194.83	140.61%
Other Operating Income	7,567.54	2,883.02	4,684.52	162.49%
<b>TOTAL OTHER INCOME</b>	<b>412,165.84</b>	<b>263,959.36</b>	<b>148,206.48</b>	<b>56.15%</b>
<b>OTHER EXPENSES</b>				
Loss(Gain) on Sale of FA	107,361.46	-	107,361.46	100.00%
Reclass Incr Net Assets	(1,851,028.95)	(1,628,449.05)	(222,579.90)	13.67%
<b>TOTAL OTHER EXPENSES</b>	<b>(1,743,667.49)</b>	<b>(1,628,449.05)</b>	<b>(115,218.44)</b>	<b>7.08%</b>
<b>NET INCOME/LOSS ( )</b>	<b>\$ 916,885.09</b>	<b>\$ 404,587.44</b>	<b>\$ 512,297.65</b>	<b>126.62%</b>



**South Dakota Science & Technology Authority**  
**Available Resources**  
**5/31/2018**

Cash Total Checking	\$	893,895
Cash With State Treasurer	\$	<u>12,654,541</u>
Total Cash	\$	13,548,436
Less: Restricted Funds		
Indemnification/Mine Closure	\$	(8,915,782)
Experiments (Xenon, Interest, Infrastructure)	\$	<u>(2,935,506)</u>
 Total Cash Available for Infrastructure Upgrades and Authority Operations	 \$	 1,697,148
Plus: Accounts Receivable Billed	\$	2,744,384
Accounts Receivable Unbilled	\$	125,598
Less: Current Liabilities (Accounts Payable & Accrued Payroll)	\$	<u>(2,192,913)</u>
(not including accts. pay. for Experiment funding)		
Available Cash	\$	<u><u>2,374,217</u></u>

SDSTA Operating Budget Summary FY2018  
Actual vs Budget  
May 2018 & YTD

	May 2018	Budget	\$ Over/Under		Actual YTD	YTD Budget	\$ Over/Under		% Remaining
			Budget	% of Budget			Budget	% of Budget	
100%									
SDSTA (Authority) Direct Charges									
Board of Directors	\$18,510.00	\$19,900.00	\$1,390.00	93.02%	\$205,768.00	\$218,900.00	\$13,132.00	94.00%	6.00%
Executive Office	\$14,393.00	\$15,132.00	\$739.00	95.12%	\$179,462.00	\$169,783.00	-\$9,679.00	105.70%	-5.70%
Science Center E & O	\$1,434.00	\$2,000.00	\$566.00	71.7%	\$12,581.00	\$27,749.00	\$15,168.00	45.34%	54.66%
Science Liaison	-\$790.00	\$0.00	\$790.00	100.0%	-\$1,355.00	\$0.00	\$1,355.00	100.00%	100.00%
Sanf.L.Visitor C. (Director)	\$0.00	\$0.00	\$0.00	0.0%	\$7,196.00	\$21,503.00	\$14,307.00	33.47%	66.53%
Subtotal	\$33,547.00	\$37,032.00	\$3,485.00	90.59%	\$403,652.00	\$437,935.00	\$34,283.00	92.17%	7.83%
Federal/State Funding - Direct Charges									
Fermi P.O.#625691 B/Site Final Des.	\$0.00	\$0.00	\$0.00	0.0%	\$124,417.00	\$124,417.00	\$0.00	100.00%	0.00%
Fermi P.O.#625692 Pre Excav.F.D.	\$0.00	\$0.00	\$0.00	0.0%	\$164,709.00	\$164,709.00	\$0.00	100.00%	0.00%
Fermi P.O.Miscellaneous	\$1,223.00	\$1,240.00	\$17.00	98.63%	\$4,427.00	\$4,820.00	\$393.00	91.85%	8.15%
Fermi P.O.#631450 Engin. Services	\$0.00	\$0.00	\$0.00	0.0%	\$52,024.00	\$79,499.00	\$27,475.00	65.44%	34.56%
Fermi P.O.#639366 Prof. Services	\$0.00	\$0.00	\$0.00	0.0%	\$79,303.00	\$91,717.00	\$12,414.00	86.46%	13.54%
Fermi P.O.#641665 Prof. Services	\$31,423.00	\$28,300.00	-\$3,123.00	111.04%	\$122,799.00	\$121,123.00	-\$1,676.00	101.38%	-1.38%
Fermi C#629760 Bridge OPS	\$1,057,567.00	\$917,921.00	-\$139,646.00	115.21%	\$10,759,512.00	\$10,629,543.00	-\$129,969.00	101.22%	-1.22%
Fermi C#630223 Ross Rehab	\$441,905.00	\$331,315.00	-\$110,590.00	133.38%	\$3,054,979.00	\$3,934,968.00	\$879,989.00	77.64%	22.36%
LBNL LUX C#6973786	\$0.00	\$0.00	\$0.00	0.00%	\$39,068.00	\$48,691.00	\$9,623.00	80.24%	19.76%
LBNL LUX/Zepplin C#7255146	\$70,679.00	\$114,690.00	\$44,011.00	61.63%	\$610,641.00	\$778,216.00	\$167,575.00	78.47%	21.53%
LBNL LZ Constr.C#7351116	\$255,296.00	\$260,000.00	\$4,704.00	98.19%	\$1,053,136.00	\$1,145,000.00	\$91,864.00	91.98%	8.02%
LBNL LZ Operations C#7355157	\$16,302.00	\$18,507.00	\$2,205.00	88.09%	\$72,720.00	\$76,353.00	\$3,633.00	95.24%	4.76%
LBNL SIGMA-V C#7371823	\$9,923.00	\$16,678.00	\$6,755.00	59.5%	\$115,878.00	\$125,536.00	\$9,658.00	92.31%	7.69%
MJD (Majorana) ORNL144149	\$2,524.00	\$2,600.00	\$76.00	97.08%	\$25,903.00	\$28,300.00	\$2,397.00	91.53%	8.47%
BHSU-UGCampus Gen.Serv.	\$0.00	\$200.00	\$200.00	0.0%	\$975.00	\$2,000.00	\$1,025.00	48.75%	51.25%
Sanf.Sci.Ed.Center - GOED Funded	\$72,689.00	\$33,500.00	-\$39,189.00	216.98%	\$453,178.00	\$418,166.00	-\$35,012.00	108.37%	-8.37%
SDSM&Tech CASPAR Gen.Serv.	\$6,357.00	\$2,666.00	-\$3,691.00	238.45%	\$21,834.00	\$29,326.00	\$7,492.00	74.45%	25.55%
* Xilinx, Inc. P.O.#732495	\$775.00	\$1,000.00	\$225.00	77.5%	\$5,989.00	\$7,220.00	\$1,231.00	82.95%	17.05%
Subtotal	\$1,966,663.00	\$1,728,617.00	-\$238,046.00	113.77%	\$16,761,492.00	\$17,809,604.00	\$1,048,112.00	94.11%	5.89%
Indirect Expenses									
Indirect Charges Personnel	\$131,937.00	\$132,280.00	\$343.00	99.74%	\$1,399,638.00	\$1,435,349.00	\$35,711.00	97.51%	2.49%
Indirect Charges Other	\$344,378.00	\$316,126.00	-\$28,252.00	108.94%	\$3,483,943.00	\$3,216,188.00	-\$267,755.00	108.33%	-8.33%
Subtotal	\$476,315.00	\$448,406.00	-\$27,909.00	106.22%	\$4,883,581.00	\$4,651,537.00	-\$232,044.00	104.99%	-4.99%
Totals	\$2,476,525.00	\$2,214,055.00	-\$262,470.00	111.86%	\$22,048,725.00	\$22,899,076.00	\$850,351.00	96.29%	3.71%
* Private Corporation (Commercial Group)									

SDSTA CAPEX Budget Summary FY17/18  
Actual vs Budget  
May 2018 & YTD

<u>Budget Area</u>	<u>Actual Month</u>	<u>FY2018 Monthly Budget</u>	<u>\$ Over/Under Budget</u>	<u>% of Budget</u>	<u>Actual YTD</u>	<u>FY2018 YTD Budget</u>	<u>\$ Over/Under Budget</u>	<u>% of Budget</u>	<u>% Remaining</u>
									100.00%
Operational CAPEX	\$ 84,068.46	\$ 85,625.00	\$ 1,556.54	98.18%	\$ 2,072,612.04	\$ 4,677,160.00	\$ 2,604,547.96	44.31%	55.69%
TOTAL CAPEX	<u>\$ 84,068.46</u>	<u>\$ 85,625.00</u>	<u>\$ 1,556.54</u>	<u>98.18%</u>	<u>\$ 2,072,612.04</u>	<u>\$ 4,677,160.00</u>	<u>\$ 2,604,547.96</u>	<u>44.31%</u>	<u>55.69%</u>

SD Science & Technology Authority  
Operational CAPEX Budget  
Monthly Actual vs Budget

Project #	Project Description	May-18	Budget	\$ Over/UnderBudget	% of Budget
CAP2014-01	Sanford Visitor Center Sign/Display	\$ 1,850.00	\$ -	\$ (1,850.00)	0.00%
CAP2014-05	CASPAR Experiment Development	\$ -	\$ -	\$ -	0.00%
CAP2016-02	LZ Surface Facility Upgrades	\$ 81,593.46	\$ 85,000.00	\$ 3,406.54	95.99%
CAP2016-03	LZ Xenon Gas	\$ 625.00	\$ 625.00	\$ -	100.00%
CAP2017-02	Ellison Option Asbestos Abatement	\$ -	\$ -	\$ -	0.00%
Monthly Totals		\$ 84,068.46	\$ 85,625.00	\$ 1,556.54	98.18%

SD Science & Technology Authority  
Operational CAPEX Budget  
YTD FY2018 Actual vs Budget

Project #	Project Description	May 2018 YTD	FY2018 Budget	\$ Over/UnderBudget	% of Budget	% Remaining
						100%
CAP2014-01	Sanford Visitor Center Sign/Display	\$ 10,563.93	\$ 5,268.00	\$ (5,295.93)	200.53%	-100.53%
CAP2014-05	CASPAR Experiment Development	\$ 79,850.19	\$ 79,850.00	\$ (0.19)	100.00%	0.00%
CAP2016-02	LZ Surface Facility Upgrades	\$ 259,181.18	\$ 287,116.00	\$ 27,934.82	90.27%	9.73%
CAP2016-03	LZ Xenon Gas	\$ 1,554,861.19	\$ 4,100,000.00	\$ 2,545,138.81	37.92%	62.08%
CAP2017-02	Ellison Option Asbestos Abatement	\$ 168,155.55	\$ 204,926.00	\$ 36,770.45	82.06%	17.94%
	Totals	\$ 2,072,612.04	\$ 4,677,160.00	\$ 2,604,547.96	44.31%	55.69%

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**SDSTA Operating Budget Summary FY2019**

July 2018 - June 2019

		Sources of Revenue				
		Federal Funding	SDSTA Funds	Budget \$ FY18/19	Budget \$ FY17/18	Difference
<b>Administration Budgets</b>						
	Board of Directors		\$236,800	\$236,800	\$236,800	\$0
	Executive Office		\$126,496	\$126,496	\$181,812	(\$55,316)
	Science Liaison		\$0	\$0	\$0	\$0
***	Science Center E & O		\$78,040	\$78,040	\$76,840	\$1,200
	Sanford Visitor Center		\$0	\$0	\$42,470	(\$42,470)
	<b>Total</b>		<b>\$441,336</b>	<b>\$441,336</b>	<b>\$537,922</b>	<b>(\$96,586)</b>
***	Science C.E & O (Approx. \$6,120 from Chris B. Memorial)					
<b>Total Authority Operating Budgets</b>		\$0	\$441,336	\$ 441,336	\$537,922	(\$96,586)
Federal Funding & State GOED Funding Xilinx		\$29,494,420		\$29,494,420	\$24,961,857	\$4,532,563
CAPEX Budget 7/2018 - 6/2019 Additional Approval Beyond Carryover			\$142,900	\$ 2,562,900 Includes carry over	\$5,747,905	\$ (3,185,005)
Total for Approval		\$29,494,420	\$584,236	\$ 32,498,656	\$31,247,684	\$1,250,972
Approximate Carryover CAPEX Projects			\$2,420,000			
Grand Total with Carryover		\$29,494,420	\$3,004,236	\$32,498,656	SDSTA Funds Other & Indirect	6 summer interns 160.15
SDSTA Funds includes funding from GOED/Foundation for Xenon					Total FTE	160.15

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SDSTA FY2019 CAPEX Budget

6/15/2018

	<u>Proj. Mng</u>	<u>Project #</u>	<u>Project Description</u>	<u>New Proj. \$'s</u>	<u>Estimated Carry Over Proj.\$'s</u>	<u>Total Proj. \$'s</u>
*	M. Headley	CAP2014-01	Sanford V.Center Ground Monitoring	\$ 5,400		\$ 5,400
***	M. Headley	CAP2016-03	LZ - Xenon Gas/Foundation Interest	\$ 137,500	\$ 2,420,000	\$ 2,557,500
			TOTAL ALL PROJECTS	\$ 142,900	\$ 2,420,000	\$ 2,562,900
			Total FY19 Budget	\$ 142,900	\$ 2,420,000	\$ 2,562,900

\* Sanford Gift Funding  
 \*\*\* GOED and Foundation Funding

Column labeled "New Proj. \$'s consists of funding for ongoing ground monitoring at the Sanford Lab Homestake Visitor Center and yearly interest to be paid to the (3) Foundations for Xenon loans.

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SDSTA  
FY2019 Budget

<u>Funding Source</u>	<u>P.O/Subc.</u>	<u>FY19 Amount</u>
LBNL LUX/Zeplin Operat.Sup	7355157	\$ 92,385
LBNL LUX/Zeplin Eng. Suppo	7255146	1,110,224
SIGMA-V	7371823	96,354
Fermi (SURF OPS Services)	629760	19,994,541
Fermi Ross Rehab	630223	6,303,473
Fermi Engineer Supp	631450	475,738
ERT Security Emerg.Supp	Fermi Subcontract	1,299,362
SDSM&Tech. - CASPAR	PHY-1615197	50,855
BHState Univ. UG Campus	FOP 636610	8,718
Oak Ridge N.L. MJD	144149	45,334
Xilinx	735935	17,436
Totals		\$ 29,494,420

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**Executive Director's Report—Mr. Mike Headley**

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The Executive Director's Report includes the following:

- 9A. SDSTA Quarterly Update—informational.
- 9B. Declaration of Surplus—miscellaneous items, informational.
- 9C. South Dakota National Guard Update—presentation by Ms. Michele Baumann.
- 9D. E&O—Update and Davis Bahcall Scholar introductions (Dr. June Apaza and Dr. Cyndi Anderson).

Davis Bahcall Scholars:

- 1. Courtney Miller
- 2. Gabriel Spahn
- 3. Grace Jones
- 4. Hannah Neumiller
- 5. Lauren Schild
- 6. Roberto Penalosa Valencia
- 7. Samantha King
- 8. Zachary Hoopman

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**Recommended Action:**

*Motion to accept the Executive Director's Report as presented.*

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AN ACT

ENTITLED, An Act to establish certain provisions related to grant monitoring and review and to revise certain record retention policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 4-11-7.2 be amended to read:

4-11-7.2. Not less than ten days after the date of filing the audit reports, the Department of Legislative Audit or the private auditing firm, whichever performed the audit, shall publish for two issues in each of the official papers of the school district a brief statement of the fact that the audit was made, where the audit may be found on file for public inspection, and a brief recital of the substantial items of error, irregularity, or loss which were discovered, but with enough detail so that the public is informed of the important findings of the audit. The Department of Legislative Audit or the private auditing firm, whichever made the audit, shall furnish a copy of the report of the audit to the person designated by the school board to receive the report. The designated person shall furnish a copy of the report of the audit to each member of the school board. The expense of the publication shall be paid at the legal rate by the school district.

Section 2. That § 4-11-12 be amended to read:

4-11-12. Not less than ten days after the date of filing the reports on audit in any public office the auditor-general shall cause to be published for two issues in each of the official papers of any municipality, school district or county, the audit of which has been completed, a brief statement of the fact that he has made the audit and where the same may be found on file for public inspection and also a brief recital of the substantial items of error, irregularity, or loss which he has discovered but with sufficient detail so that the public may be informed of the important findings of the audit. Expense of such publication is to be paid at legal rate by the said municipality, school district, or county. Any county, city, or school district who receives an independent audit shall make the audit

report available on the entity's website.

Section 3. That § 1-56-10 be amended to read:

1-56-10. The grant agreement for each grant, pass-through grant, or any other award granted by a state agency to a nonstate agency after July 1, 2016, shall be displayed on the website created pursuant to § 1-27-45.

Each grant agreement shall include an attestation by the award recipient or sub-recipient that:

- (1) A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;
- (2) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or sub-recipient's website;
- (3) An effective internal control system is employed by the recipient's or sub-recipient's organization; and
- (4) If applicable, the recipient or sub-recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or sub-recipient's website.

Any sub-recipient evaluation report or program evaluation report completed by a state agency for the federal government for a grant where a state agency serves as a pass-through entity to a nonstate agency shall be posted on the website created pursuant to § 1-27-45. Any information in the report that would be exempt from public disclosure under chapter 1-27 may be redacted prior to posting.

Any conflict of interest as outlined in the organization's conflict of interest policy as required by § 1-56-10 within the recipient or sub-recipient's organization to which § 1-56-10 applies shall be disclosed to the state agency and displayed on the website created pursuant to § 1-27-45 with its



corresponding grant agreement.

Section 4. That chapter 5-18A be amended by adding a NEW SECTION to read:

No person involved in the determination of the recipient of a grant or contract from a state agency may be awarded the grant or contract. No recipient or sub-recipient of a grant or contract from a state agency may conduct any external evaluation of the performance of the grant or contract.

Section 5. That chapter 5-18A be amended by adding a NEW SECTION to read:

Any person holding a statewide office as defined in § 12-27-1, and any head of an agency in the executive branch, shall annually sign a form, as created by the Bureau of Human Resources, acknowledging that the person has reviewed the state conflict of interest policy and disclosing any conflicts that have not previously been disclosed. The Bureau of Human Resources shall compile the forms and present them annually for review by the Government Operations and Audit Committee.

Section 6. That § 1-27-46 be amended to read:

1-27-46. The state shall display on the searchable internet website created pursuant to § 1-27-45 copies of each written contract for supplies, services, or professional services of ten thousand dollars or more, each written contract filed with the state auditor pursuant to § 1-24A-1, and each written contract filed with the attorney general pursuant to § 1-11-15. Each contract shall be displayed electronically not less than sixty days after commencement of the contract term and for not less than the retention period prescribed by § 1-27-4.1.

Section 7. That § 1-56-10 be amended to read:

1-56-10. The grant agreement for each grant, pass-through grant, or any other award granted by a state agency to a nonstate agency after July 1, 2016, shall be displayed on the website created pursuant to § 1-27-45 for not less than the retention period prescribed by § 1-27-4.1.

Each grant agreement shall include an attestation by the award recipient or sub-recipient that:

- (1) A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;
- (2) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or sub-recipient's website;
- (3) An effective internal control system is employed by the recipient's or sub-recipient's organization; and
- (4) If applicable, the recipient or sub-recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or sub-recipient's website.

Section 8. That § 1-27-13 be amended to read:

1-27-13. The head of each agency shall submit to the commissioner of administration, in accordance with the rules, standards, and procedures established by the commission, schedules proposing the length of time each state record series warrants retention for administrative, legal, or fiscal purposes after it has been received by the agency. However, original invoices and vouchers submitted to the state auditor for payment shall be retained for at least seven years.

An Act to establish certain provisions related to grant monitoring and review and to revise certain record retention policies.

=====

I certify that the attached Act originated in the

SENATE as Bill No. 100

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 100  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

=====

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State

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## DECLARATION OF SURPLUS PROPERTY

The South Dakota Science and Technology Authority (SDSTA) wishes to surplus items listed that are located on property. SDSTA has no further use for the items below:

- Wooden Office Desk
- 3 x 2 Wooden Table
- EMD – 6MV12 Diesel Motor Generator and Generator Skid (Model # 12-645-E4) Serial# 76-D1-1006.
- Galvanized Matting or Lacing (6 x 2 ½).
- Dry Ice Machine (Model F-16A) Jet Blast System

I hereby declare the items listed to be Surplus Property. The SDSTA is currently seeking bids. Dated at Lead, South Dakota this 26<sup>th</sup> day of April 2018.

A handwritten signature in blue ink, appearing to read "Mike Headley".

Mike Headley  
SDSTA Executive Director

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**Approval of Lease for City of Lead Maintenance Shop—Mr. Mike Headley**

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Attached is the Lease agreement between the South Dakota Science and Technology Authority (SDSTA) and the City of Lead, as well as Exhibits A and B.

See recommended motion below.

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**Recommended Action:**

*Motion to approve the Lease as presented, to authorize the Chairperson, in consultation with the Executive Director and Legal Counsel, to negotiate the final terms of the Lease and to authorize the Chairperson to execute the final version of the Lease.*

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PREPARED BY:  
Timothy M. Engel  
May, Adam, Gerdes & Thompson LLP  
PO Box 160  
Pierre, SD 57501-0160  
(605) 224-8803

## **LEASE AGREEMENT AND TERMINATION OF EXISTING LEASE**

This Lease Agreement (“Agreement”) is hereby made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2018 (the “Effective Date”) by and between the South Dakota Science and Technology Authority, a body corporate and politic, of 630 E. Summit Street, Lead, SD, 57754 (“Landlord”) and the Tenant of Lead, a South Dakota municipal corporation, of 801 West Main, Lead, South Dakota 57754 (“Tenant”). For good and valuable consideration, the receipt and sufficiency of which is acknowledged by each party hereto, the parties AGREE as follows:

**1. Termination of Existing Lease.** The Lease Agreement entered into between Homestake Mining Company of California and Tenant dated September 1, 1999 is hereby terminated, effective as of the Effective Date. Landlord hereby consents and agrees to the termination of the September 1, 1999 Lease Agreement in its capacity as assignor and successor in interest to Landlord Mining Company of California’s interest in said lease.

**2. Lease.** (a). Landlord hereby leases to Tenant certain real property located within the Tenant of Lead, Lawrence County, South Dakota as generally shown on the drawing attached hereto as Exhibit A, which is a portion of the real estate described as Tract F, Yates Subdivision, City of Lead, Lawrence County, South Dakota, as shown on Plat Document Number 2005-8217 (“Property”) for use as the location of its city maintenance shop and to conduct activities on the Property in connection with such use, including but not limited to the storage and maintenance of equipment. The foregoing notwithstanding, the Property does not include, and Lessee may not enter in or upon or otherwise access the locations described on the attached Exhibit A as the “(Former) Coal Chute,” “Old Substation,” or “Old High (empty)”.

(b) Tenant’s right to use the Property for the purposes stated above are exclusive, but Landlord retains the right to enter the Property and permit others to enter the Property to exercise all of the rights and incidents of ownership not expressly granted to Tenant by this Lease.

(c) Landlord further reserves for itself a right of ingress and egress upon that portion of the Property so designated on Exhibit A for the purpose of access as provided above in subsection 2(b) and for the further purpose of ingress and egress to and through adjacent real property owned by Landlord.

(d) Landlord makes no warranty or representation as to Landlord's title to the Property, or the condition of or zoning ordinances concerning the Property for any purpose including but not limited to the purposes for which Tenant enters into this Lease.

(e). Tenant acknowledges the following:

(i). the buildings shown on the attached Exhibit A which are owned by Landlord may contain asbestos, mold, lead paint, or other substances or materials which may be hazardous to human health;

(ii). the area designated on the attached Exhibit A as "Old Substation" may contain PCBs or other substances or materials which may be hazardous to human health;

(iii). Landlord has performed little to no maintenance on the Landlord-owned buildings shown on Exhibit A. Such buildings may not be structurally sound and may contain trip and fall hazards, low clearances, and other hazards to human health. Such buildings may not be secure against the elements, including wind or rain.

(f). Tenant has inspected the Property, including the Landlord-owned buildings and the Old Substation and accepts the Property and all improvements in its and their "AS IS" condition.

3. **TERM.** The initial term of this Lease shall be two years, commencing as of the Effective Date. Thereafter this Lease may be renewed for additional terms of one year each upon such terms as are agreed upon by the parties and subject to such approval of Tenant's governing body as may be required by applicable law. The foregoing notwithstanding, Tenant may terminate this Lease at any time upon thirty (30) days' written notice to Landlord.

4. **UTILITIES/CONSIDERATION.** (a) Tenant shall be responsible for all heat and other utility services to the Property including hookup, payment and termination of service.

(b). Tenant agrees, in accordance with its normal and routine snow removal activities, that it will make one run per snow event through Landlord's laboratory complex, including the property commonly known as "Ellison Hill" with the Tenant's snow plow.

5. **STEWARDSHIP.** (a) Tenant shall maintain the Property in good and safe condition in accordance with all applicable law and shall not discard nor allow any other party to discard any garbage, refuse or hazardous substance of any kind on or in the Property, and agrees to operate its affairs on and adjacent to the Property in compliance with all applicable local, state and federal laws and regulations, including those that apply to the environment, air, water, sanitation and fire hazards and as they may from time to time be amended by governmental agencies.

(b). As further consideration for the lease provided for herein, Tenant agrees to maintain its property and the adjoining real estate in accordance with Landlord's Storm Water Pollution Prevention and Spill Prevention, Control and Countermeasure Plans as described on the attached Exhibit B, which is incorporated herein by this reference. Tenant is hereby granted a temporary

easement over and upon Landlord's real estate adjoining the Property for the sole and exclusive purpose of maintaining Landlord's adjoining real estate in conformity with the requirements set out in the attached Exhibit B. The easement granted in this subsection 5(b) is non-exclusive, and may not be exercised in a manner that interferes with the use of Landlord's property by Landlord or any other easement holders, licensees, or invitees. In the event of competing needs for access to the easement area, before commencing work Tenant shall coordinate any such work with Landlord's representative. For the purpose of this subsection 5(b), Landlord's representative is \_\_\_\_\_.

**6. TERMINATION BY LANDLORD/RELOCATION COMPENSATION.**

Tenant acknowledges that the provisions of the Lease dated September 1, 1999 for Relocation Compensation (as that term is defined in said Lease) are terminated as a part of this Agreement and are no longer of any force or effect. Tenant further acknowledges and agrees that Tenant is not owed any Relocation Compensation or other payments or compensation of any kind whatsoever on account of or related to the Lease dated September 1, 1999.

**7. ABANDONMENT OR RELOCATION OF BUILDING.** The parties acknowledge that the steel building located on the Property (described on the attached Exhibit "A" as "Truck Shop" and "Office") is owned by Tenant. If this Agreement is terminated for any reason, unless otherwise agreed in writing, Tenant shall within ninety (90) days after the effective date of termination remove said building from the Property, remove all related foundations and concrete floors, and otherwise restore the Property to a level, ready for use or new construction condition. The foregoing notwithstanding, Tenant is not required to remove or repair existing underground utilities or roadways, nor is Tenant required to install new utilities.

**8. INDEMNIFICATION.** To the fullest extent permitted by law, Tenant shall indemnify, defend and hold Landlord, its directors, officers, employees, agents, representatives, contractors and those of its affiliates harmless from any damage, loss, liability, injury or the claim thereof (including attorney's fees) to persons, property, natural resources and the environment, including environmental liability and responsibility of every kind and character arising out of Tenant's use and occupation of the Property, including without limitation the improvements located thereon.

**9. INSURANCE.** During the term of this Lease, Tenant shall obtain and maintain in effect the following insurance:

- (a) Worker's Compensation Insurance in the amounts and with the limitations of liability required by law.
- (b) Employer's Liability Insurance with a limit of liability of not less than \$1,000,000.00.
- (c) Commercial General Liability Insurance with a limit of liability of not less than \$2,000,000 combined single limit, per occurrence and annual aggregate, for bodily injury and

property damage. Such insurance shall also include Completed Operations and Broad Form Blanket Contractual Liability coverage insuring Landlord against liability for all claims, loss or damage arising from any cause whatsoever arising out of or related to any activities of Tenant and/or its contractors.

(d) All such insurance coverages shall include endorsements or other provisions stating that all insurance of Tenant described in this Section is the primary insurance and providing for waiver of subrogation by the insurer against Landlord.

(e) Certificates evidencing such insurance and naming Landlord as an additional insured shall be delivered to Landlord within ten days of the execution of this Agreement and any subsequent modifications or renewals thereof. Each such certificate shall include a provision that Landlord shall be given not less than 30 days prior written notice by registered mail of any cancellation or reduction of coverage.

**10. LIENS.** Tenant shall keep the Property free of liens, including those resulting from the purchase of labor and materials.

**11. TAXES.** Landlord shall pay any real property taxes related to the Property.

**12. INSPECTION.** Landlord reserves the right for Landlord and its representatives to enter the Property at any time for the purpose of exercising all rights not granted to Tenant pursuant to this Lease and Landlord's rights under Section 2 to make reasonable inspections to ensure Tenant's compliance with its obligations under this Lease.

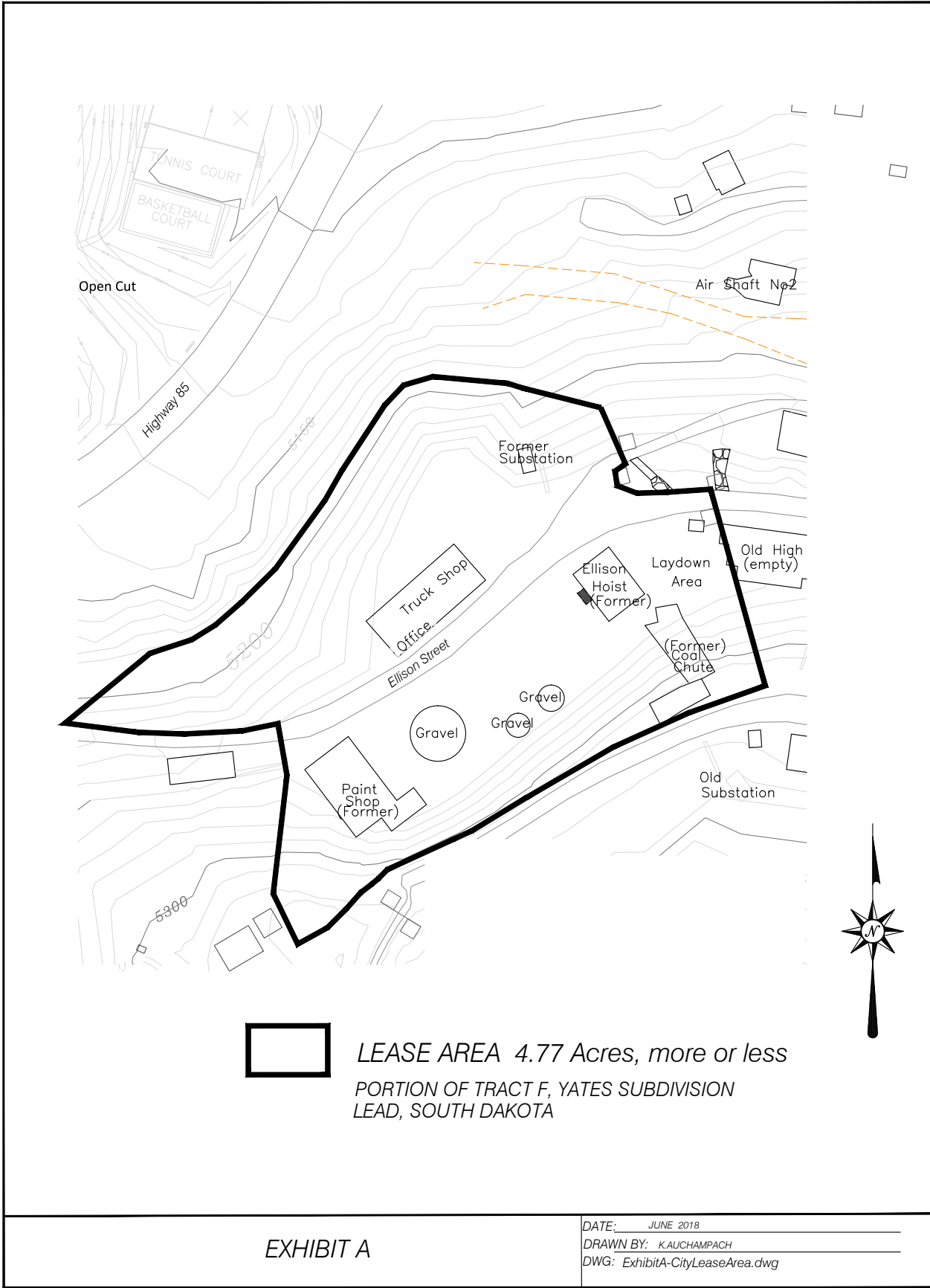
**13. NOTICES.** All notices and other communications to either party shall be in writing and delivered personally or sent by prepaid mail, FAX or other means providing for receipt of the communication in written form. Notices sent by ordinary mail shall be effective five days after the date of mailing. Notices sent by certified or registered mail shall be effective on the next business day after the date of actual delivery. Until a change of address is so given, notices shall be addressed to Landlord and Tenant as provided in the caption to this Lease.

**14. EFFECT OF LEASE; ASSIGNMENT; TRANSFER.** Tenant shall not permit others to use the Property. This Lease may not be assigned or transferred by Tenant without the express prior written consent of Landlord, which consent shall not be unreasonably withheld. All rights, privileges, benefits and expectations created by or pursuant to any previous license, permit or lease to use the Property shall be extinguished and superseded by this Lease.





**EXHIBIT A  
TO  
LEASE AGREEMENT  
AND TERMINATION OF EXISTING LEASE  
BETWEEN THE SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY  
AND THE CITY OF LEAD, SOUTH DAKOTA**



**EXHIBIT A**



**EXHIBIT B  
TO  
LEASE AGREEMENT  
AND TERMINATION OF EXISTING LEASE  
BETWEEN THE SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY  
AND THE CITY OF LEAD, SOUTH DAKOTA**



## Memorandum

**To:** John Bunch, Mike Stahl

**From:** John Scheetz

**Date:** June 10, 2018

**Re:** Storm Water and SPCC Responsibilities

---

This memo summarizes the general requirements of:

1. The Spill Prevention Control and Counter Measures Plan (SPCC)
2. The Storm Water Pollution Prevention Plan (SWPPP)
  - The SPCC plan is intended to prevent spills and to instruct about the reporting and clean-up of spills.
  - The SWPPP is intended to prevent pollution (chemicals and sediment) in storm water runoff.

Both plans are required by law and permit.

Both plans require training and inspections:

1. The SPCC plan requires training on spill prevention and control; and **inspections once per month** of areas where you may have petroleum spills in the Sanford Laboratory Leased area (i.e. City Shop area). The training includes reviewing the SPCC plan with Sanford Laboratory and receiving a copy of the SPCC Plan. The City is also responsible for the training of its maintenance employees on spill, prevention, response, and clean up. The training should occur once per year. The SPCC plan also requires inspections of areas on Sanford Laboratory's leased property where spills might occur. A map and inspection checklist for Stations 6,7, and 8 are enclosed.
2. The SWPPP requires an inspection **once per quarter (except Jan-March)** of the City Shop area where you have controls to prevent storm water from being contaminated by sediment, petroleum, or other chemicals. These controls may include rip-rap channels, containment of sand piles, silt fence, spill clean-up equipment, designated equipment parking areas, berms, etc. and are identified on the enclosed map, description and checklist. Sanford Laboratory's SWPPP, also provided to you, should be reviewed with Sanford Laboratory to help you understand its requirements.

**SPCC Inspection Form**

Station or Tank		Inspected by:			
Date:		YES	NO	COMMENTS	
OBSERVATION					
Is there a legible label identifying the contents of the tank?					
Are there signs of corrosion, deterioration, and leakage of the tank?					
Are there signs of corrosion and deterioration of any tank supports?					
Is there evidence of leakage from the equipment or tank pumping/piping system?					
Are all valves in their proper position?					
The presence of any petroleum product and/or precipitation present in the secondary containment?					
Is the secondary containment drain valve locked in the closed position?					
Is the fueling or equipment parking area free of petroleum stains?					
Corrective Action Necessary?					
Follow Up Action Taken: (Include dates and personnel)					

When completed, this form shall be included in Appendix E of the SPCC Plan.

**STORMWATER MONITORING CHECKLIST- Sanford Underground Research Facility**  
Version 8.1, June 1, 2018

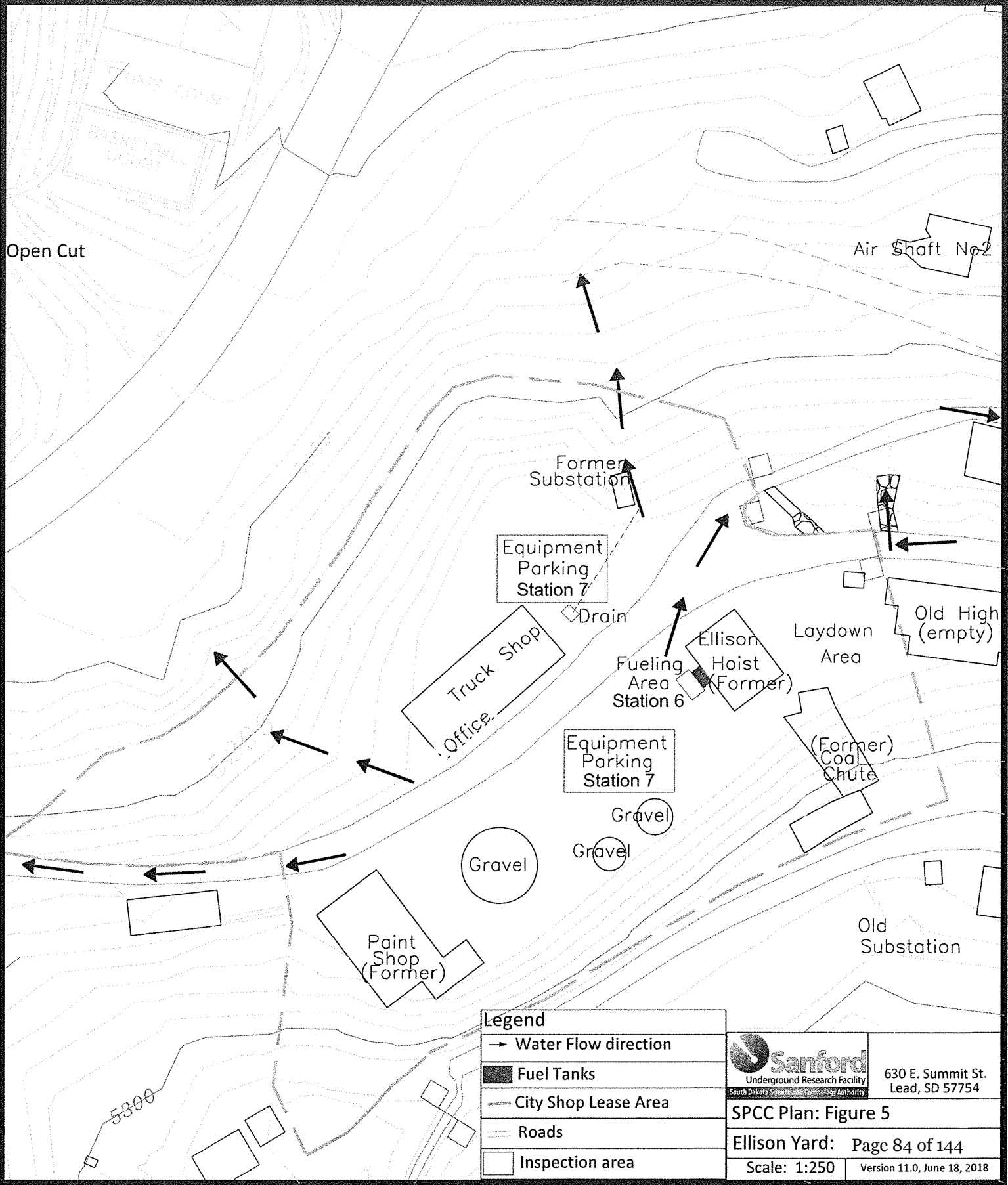
Date:

Inspector:

BMP NUMBER	DESCRIPTION	CONTROL MEETS STANDARDS	REPAIRS NEEDED	DESCRIPTION OF REPAIRS NEEDED
LAB-73	Elison Complex - City of Lead (Figure 6) (inspect quarterly except Jan-Mar.) Ensure Berm is continuous and keeps storm water from going over hill	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> YES	
LAB-74	Rip rap channel draining	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> YES	
LAB-75	Rip rap channel to Park Ave	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> YES	
LAB-76	Rip rap channel to Park Ave	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> YES	
LAB-77	Rip rap channel to Park Ave	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> YES	

Items in red are to be monitored (in addition to quarterly) after storm events of greater than 1-inch in a 24-hour period

Inspection performed by City



Legend	
	Water Flow direction
	Fuel Tanks
	City Shop Lease Area
	Roads
	Inspection area

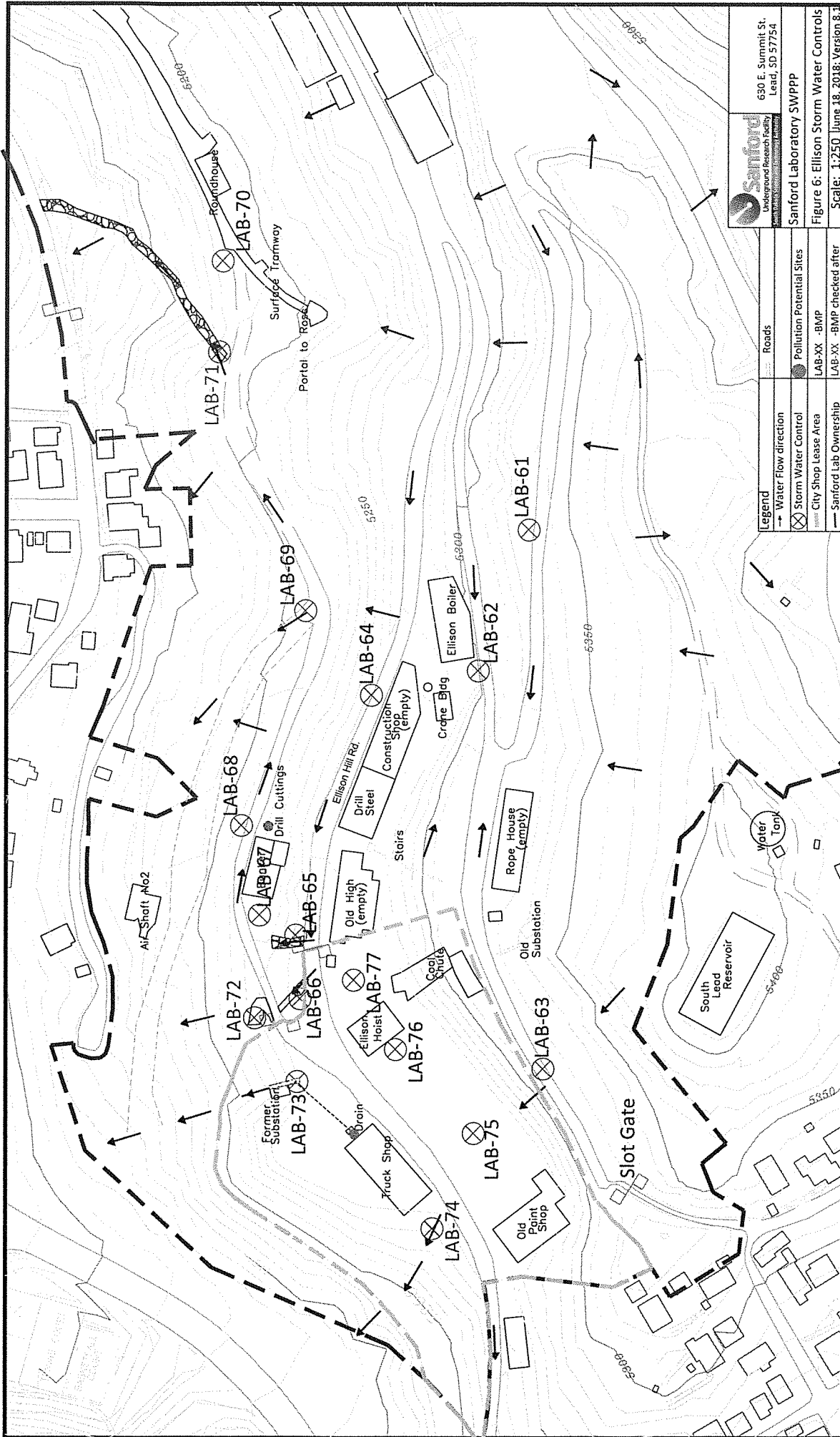


630 E. Summit St.  
Lead, SD 57754

SPCC Plan: Figure 5

Ellison Yard: Page 84 of 144

Scale: 1:250 | Version 11.0, June 18, 2018



**Approval of FY2019 Office of Risk Management Intergovernmental Agreement—Mr. Mike Headley**

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Attached is the FY2019 Intergovernmental Agreement between the Bureau of Administration, Office of Risk Management of the State of South Dakota and the SDSTA.

See recommended motion below.

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**Recommended Action:**

*Motion to approve the FY2019 Intergovernmental Agreement between the Bureau of Administration, Office of Risk Management of the State of South Dakota and the SDSTA and authorize the SDSTA Executive Director to sign the agreement.*

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INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE  
BUREAU OF ADMINISTRATION,  
OFFICE OF RISK MANAGEMENT  
OF THE STATE OF SOUTH DAKOTA  
AND THE  
SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY

This INTERGOVERNMENTAL AGREEMENT (“AGREEMENT”) is made and effective the 1st day of July, 2018, between the South Dakota Bureau of Administration, Office of Risk Management, 1429 E. Sioux Avenue, Pierre, South Dakota 57501 (“ORM”), and the South Dakota Science and Technology Authority, 630 E. Summit, Lead, South Dakota, 57754 (“SDSTA”) pursuant to SDCL Ch. 1-24 and in particular SDCL 1-24-8.

Introduction and Purpose

The State of South Dakota established SDSTA to facilitate the development of the former Homestake gold mine into an underground science laboratory (the “Sanford Underground Research Facility” or “SURF”) and to lead the operation of SURF. The mission of the SDSTA is “to advance compelling underground, multidisciplinary research in a safe work environment and to inspire and educate through science, technology and engineering.”

When operating as an active mine, the Homestake gold mine was regulated by the U.S. Mine Safety and Health Administration (“MSHA”) and the South Dakota Department of Environment and Natural Resources (“DENR”). SDSTA received title to the Homestake site in 2006 from Homestake Mining Company of California after the 2003 closure of the mining facility.

MSHA and DENR continued to administer and enforce safety and environmental programs until 2008, at which time the SDSTA sought to clarify MSHA’s regulatory role. MSHA determined at that time it no longer had regulatory jurisdiction over the safety and health operations at the Homestake site due to the completion of mining reclamation and the new function of the site.

The U.S. Occupational Safety and Health Administration’s (“OSHA’s”) 29 CFR 1926<sup>1</sup> and 29 CFR 1910<sup>2</sup> are considered the most applicable of the available standards for safety and health for most activities conducted in support of the development of the underground laboratory. MSHA’s 30 CFR<sup>3</sup> standards are employed as a best practice for specified underground activities (see appendix A).

Although OSHA standards are being applied to the work conducted at SURF, OSHA does not have jurisdictional authority for enforcement of those regulations because SDSTA is for the purposes of OSHA standards and regulation a “political subdivision” as defined in 29 CFR 1975.5 because it is administered by individuals who are appointed by the Governor.

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<sup>1</sup> Title 29 Code of Federal Regulations Part 1926, “Safety and Health Regulations for Construction”

<sup>2</sup> Title 29 Code of Federal Regulations Part 1910, “Occupational Safety and Health Standards”

<sup>3</sup> Title 30 Code of Federal Regulations Parts 15, 49, and 57”

ORM has the responsibility to oversee the state's risk management activities. Accordingly, ORM is the agency that is mandated to provide the inspection and audit of state institutions and facilities and has been designated to serve as the agency having jurisdiction ("AHJ") for occupational safety and health at SURF.

SDSTA has entered into a lease (the "Lease") with the United States of America, acting through the Department of Energy (the "Government"), dated March 29, 2016, whereby SDSTA has leased to the Government certain surface and subsurface real estate for the purpose of constructing, operating and maintaining the Long Baseline Neutrino Facility ("LBNF") and the Deep Underground Neutrino Experiment ("DUNE"), and related infrastructure (the "Leased Space"). ORM's jurisdiction hereunder shall not include the Leased Space, but SDSTA and ORM shall continue to consult and cooperate concerning occupational safety and health related to the Leased Space.

The purpose of this Agreement is to clarify the roles and responsibilities, expectations and communications for ORM to serve as the AHJ for SDSTA in the implementation of the occupational safety and health standards.

This Agreement is authorized pursuant to SDCL Ch. 1-24 and SDCL 1-16H-32.

### Agreement

A. Safety Standards Applicable to SDSTA. Until amended in writing by ORM, the safety standards applicable to SDSTA's facilities and operations shall be as set out in Appendix A, attached hereto and incorporated herein by this reference. The parties agree that ORM may unilaterally amend Appendix A at any time and in their sole discretion, and all such amendments shall be incorporated herein effective upon 30 days written notice to SDSTA.

The parties further acknowledge and agree that the agency having jurisdiction over the enforcement of building (International Building Code) and fire safety (National Fire Protection Association) codes and standards is the City of Lead, South Dakota. ORM shall not have jurisdiction to apply or enforce any codes and standards.

B. Responsibilities of the ORM<sup>4</sup>. ORM shall:

1. Provide for safety, loss control and regulatory compliance audits and inspections of SDSTA's documentation, records and facilities;
2. Review claims to identify trends or situations requiring loss prevention efforts;
3. Advise SDSTA on applicable laws, regulations and standards which contribute to a safe work environment at SURF;
4. Provide for loss control training;
5. Upon request, review contracts for appropriate risk management language;
6. Assist SDSTA with the selection of brokers and insurance companies and in negotiating to obtain the best product for the best price;
7. Provide enforcement of the safety standards made applicable to SDSTA's facilities by this Agreement; and

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<sup>4</sup> State of South Dakota Risk Management Manual, The Office of Risk Management, June 25, 2009 (is this the current revision?)

8. Provide copies of the results of safety or compliance reviews, inspections, or audits to SDSTA upon completion.

C. Risk Management Responsibilities of SDSTA<sup>5</sup>. SDSTA shall:

1. Be responsible for coordinating and implementing risk management programs within its departments and at its facilities with the assistance of ORM. SDSTA will provide a safe workplace and conduct operations in a manner that protects employees, contractors, visitors and the public from harm. The SDSTA shall conform to its safety policy: “Perform all work safely, with full regard to the well-being of all stakeholders and the environment;”

2. Perform all activities at SURF in a safe and environmentally sound manner;

3. Pursuant to Section 6.7 of the Property Donation Agreement<sup>6</sup> between SDSTA and Homestake, undertake all measures necessary to comply with federal, state, and local laws and regulations, including, without limitation, laws relating to workers’ compensation, mine health and safety, and all Environmental, Health and Safety Laws (as defined in the Property Donation Agreement), and shall apply in a timely manner for all Environmental Permits (as defined in the Property Donation Agreement) and all other permits, licenses and approvals necessary for its operations;

4. Assist ORM in identifying, measuring and minimizing exposures to loss by:
  - a. Conducting facility inspections to identify and address safety hazards;
  - b. Conducting services and operations in accordance with applicable laws, regulations and safety standards;
  - c. Properly reporting accidents, incidents and unsafe conditions;
  - d. Reviewing losses to identify trends or situations requiring loss prevention efforts;
  - e. Ensuring policies and procedures remain current, are communicated to all employees and enforced;
  - f. Drafting all contracts with the appropriate risk management language;
  - g. Communicating changes in exposures to ORM; and
  - h. Evaluating ORM’s recommendations.

5. Comply with all safety and enforcement directives and actions given by ORM.

6. Comply with requests from ORM for information and documents related to safety or compliance reviews, inspections or audits, including, to the extent available to SDSTA, any such reviews, inspections or audits related to activities in the Leased Space.

D. Agreement Administration. The cooperative undertaking herein described shall be administered by the Parties through their risk management contact persons: ORM through its Director and SDSTA through its Executive Director or authorized designees as contemplated in SDCL 1-24-5.

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<sup>5</sup> State of South Dakota Risk Management Manual, The Office of Risk Management, June 25, 2009

<sup>6</sup> Property Donation Agreement Between and Among Homestake Mining Company of California, The State of South Dakota and the South Dakota Science and Technology Authority, April 14, 2006.

E. Reporting.

SDSTA employees may contact ORM directly and without risk of retaliation if they feel there is substantial risk of harm to persons or the environment that is not being addressed by SDSTA management.

F. Site Access Rules.

1. SDSTA will provide reasonable accommodations for ORM to have unencumbered access to SDSTA facilities and operations.
2. The parties acknowledge and agree that representatives of ORM conducting activities relating to this Agreement are “Authorized Entrants” as that term as used in the Property Donation Agreement.
3. Access to underground and other hazardous environments shall be provided in a manner that is reasonable and safe.

G. Right to Inspect.

1. ORM has the right to inspect SDSTA facilities at will and with no advance notification when there is reasonable cause.
2. ORM will otherwise provide reasonable notification in advance of scheduled visits.
3. ORM may require SDSTA to undertake third party inspections or oversight visits, or may contract for such inspection and oversight visits in its own right.
4. SDSTA will provide timely notifications to ORM when third party inspections or oversight visits are scheduled, and ORM may observe such third-party inspections or oversight visits at ORM’s discretion.
5. Whether or not ORM participates in third party reviews or inspections, SDSTA will provide the results and any findings to ORM.

H. Payment of Costs.

SDSTA shall upon request reimburse ORM for extraordinary costs incurred by ORM in connection with ORM’s responsibilities hereunder. The term “extraordinary costs,” as used herein, means costs other than the fees and costs of third party consultants and inspectors, travel costs of ORM personnel, costs (including reasonable attorney fees) incurred in commencing or maintaining enforcement actions and other, similar costs and expenses, but includes costs incurred in connection with out-of-state travel expenses incurred by ORM personnel in connection with this Agreement. ORM shall provide SDSTA with a written invoice for costs incurred by ORM under this Agreement. SDSTA will contest any portions of the invoice it deems unreasonable and pay any uncontested amount within 30 days of receipt of the invoice. SDSTA agrees to pay all uncontested costs and expenses within 45 days of receipt of invoice.

I. Indemnification and Insurance.

SDSTA shall indemnify and hold the State of South Dakota and its officers, agents and employees (“Indemnified Parties”) harmless from and against any and all claims, causes, actions or causes of action made or asserted against the Indemnified Parties arising out of related to ORM’s duties and responsibilities under this Agreement. SDSTA shall cause the Indemnified

Parties to be named as additional insureds under SDSTA's general liability policy. The limits of liability of SDSTA's general liability policy shall not be less than \$75 million. SDSTA shall provide such proof of the existence and enforceability of the insurance required by this paragraph as ORM may from time to time reasonably request. Nothing in this paragraph shall require SDSTA to indemnify ORM or its officers, employees or agents against any claims or losses resulting solely from the negligence or intentional acts of ORM or its officers, employees or agents.

J. Exclusion of Leased Space.

ORM hereby acknowledges receipt of a copy of the Lease. For so long as the Lease remains in force or the parties agree otherwise, ORM's jurisdiction hereunder shall not include the Leased Space. ORM's jurisdiction hereunder shall not include the Leased Space, but SDSTA and ORM shall continue to consult and cooperate concerning occupational safety and health related to the Leased Space.

K. Duration of Agreement.

This Agreement shall be in effect from July 1, 2018, through June 30, 2019.

L. Remedies - Enforcement.

ORM is entitled to all remedies reasonably necessary to carry out the terms of this Agreement and enforcement of the safety standards made applicable to SDSTA and its facilities by this Agreement. Without limiting the generality of the foregoing, ORM may pursuant to the terms of this Agreement issue an administrative order directing SDSTA to cease operations and/or close all or any portion of its facilities until such time as the violation giving rise to the administrative order has been resolved to ORM's reasonable satisfaction.

M. Retention of Records.

Each party hereto agrees to retain all documentation and records relating to the services and inspections provided for hereunder and for payment and reimbursements for expenses under this Agreement for a period of three years after termination of this Agreement. Such records shall be available for inspection at any reasonable time by personnel authorized therefore by the State of South Dakota.

N. Funding Out.

This Agreement depends upon the continued availability of appropriate 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 ORM. Termination for any of these reasons is not a default by the ORM nor does it give rise to a claim against ORM.

O. Nature of Agreement.

This Agreement is intended to be an agreement for services by a public agency as contemplated by SDCL 1-24-8. The parties acknowledge that no separate entity as contemplated by SDCL 1-24-4 is being created to implement this Agreement. This Agreement is intended to only govern the rights and interest of the parties named herein. It is not intended to, does not and may not be relied upon to create any rights, substantial or procedural, enforceable at law by any third party in any matters, civil or criminal.

P. Governing Law-Venue.

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.

Q. Notice.

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Director of ORM, and by and to the Executive Director of SDSTA, 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 the notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

R. Filing of Agreement.

The parties acknowledge that the ORM will file a true copy of this Agreement with the Office of Attorney General and the Legislative Research Council within 14 days of the execution hereof, as required by SDCL 1-24-6.1.

S. Alterations and Entire Agreement.

Except as provided in section A. of this Agreement, no amendment, alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by both parties. No oral understanding or agreement not incorporated herein may be binding on any of the parties hereto. Terms expressly stated within the Agreement constitute the entire agreement between ORM and SDSTA. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, except as specifically provided herein.

T. Partial Invalidity.

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.

U. Authorization of Agreement.

By the signature of their representatives below, ORM and SDSTA certify that approval of this Agreement by ordinance, resolution or other appropriate means has been obtained by that governmental body's governing body or officer pursuant to SDCL 1-24-3 and 1-24-6, and that the representative is authorized to sign on the party's behalf. A copy of any SDSTA authorizing resolution or ordinance is attached to this Agreement and incorporated herein by reference.

In Witness hereto the parties signify this Agreement by signatures affixed below:

\_\_\_\_\_  
Mike Headley                      Date  
Executive Director  
South Dakota Science and Technology  
Authority

\_\_\_\_\_  
Scott Bollinger                      Date  
Commissioner  
Bureau of Administration  
State of South Dakota

## Appendix A – SURF Environmental, Health, and Safety Standards

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### 1.0 Work Place Safety

29 CFR 1910	Occupational Safety and Health Standards
29 CFR 1926	Safety and Health Regulations for Construction
30 CFR 15	Requirements for Explosives
30 CFR 49	MSHA Mine Rescue Teams
30 CFR 56-57/58	MSHA Safety and Health Standards – Underground Metal/Non-Metal Mines
30 CFR 57.3200-3401	Ground Control
30 CFR 7.5060 - .5075	Diesel Particulate Matter
30 CFR 57.8518 -.8535	Ventilation – Surface and Underground
30 CFR Part 57.19000 - .19119	Personnel Hoisting, Wire Ropes, Headframe and Sheaves, Conveyances, Hoisting Procedures, Shafts, Inspection and Maintenance
ANSI Z358.1-2009	Emergency Eyewash and Shower Equipment (Inspection, Maintenance and Use)
30 CFR 57.11050- .11059	Escapeways and Refuges
30 CFR 57.22214 - .22229 (b)	Ventilation and Ventilation Plan
NFPA 72	National Fire Alarm Code

### 2.0 Building Codes

Title 18 USC Part I Chapter 40.843	Explosives (Licenses and User Permits)
ANSI Z358.1-2009	Emergency Eyewash and Shower Equipment (Installation)
ANSI/ASHRAE 62-2004	Ventilation for Acceptable Indoor Air Quality
ASME	Boilers and Pressure Vessel Code (Sections I through XII including applicable Code Cases)
ASME B31.1 (i)	Power Piping
ASME B31.2 (ii)	Fuel Gas Piping
ASME B31.3 (iii)	Process Piping
ASME B31.4 (iv)	Pipeline Transportation Systems for Liquid Components
ASME B31.5 (v)	Refrigeration Piping and Heat Transfer Components
ASME	Cranes and Hoist Standards
IBC 2015	Building Codes
NFPA 101	Life Safety Code
NFPA 110	Emergency and Standby Power Systems
NFPA 45	Fire Protection for Laboratories Using Chemicals
NFPA 520	Standard on Subterranean Spaces
NFPA 70 B	Recommended Practice for Electrical Equipment Maintenance



NFPA 70 E  
NFPA 70  
NFPA 780

SD Lead City Ordinance  
Fermilab Policy

Standard for Electrical Safety in the Workplace  
National Electrical Code  
Standard for the Installation of Lightning  
Protection Systems (and UL86A)  
Occupational Noise Exposure  
Oxygen Deficiency Hazards (ODH)

### **3.0 Environmental and Waste Management**

10 CFR 1021

National Environmental Policy Act  
Implementing Procedures

40 CFR 112

Spill Prevention, Control and Countermeasure  
Procedures

40 CFR 260-279

Protection of Environment – Hazardous Waste  
Management System (Hazardous Waste  
Regulations)

40 CFR 262.11

Hazardous Waste Determination

40 CFR 273

Standard for Universal Waste Management

40 CFR 761

Polychlorinated Biphenyls (PCB)

40 CFR 280

Underground Storage Tanks

40 CFR 302 (CERCLA)

Designation, Reportable Quantities, and  
Notification

40 CFR 370

Hazardous Chemical Reporting, Community  
Right to Know

40 CFR 61, Subpart A

National Emissions Standards for Hazardous Air  
Pollutants

40 CFR 122

NPDES system

Guidelines Establishing Test Procedures for the  
Analysis of Pollutants

49 CFR 171-180

Hazardous Materials Transportation Act

SD Article 12:62

Weed and Pest Control

### **4.0 SD-DENR: Codified Law**

34-44

Asbestos Abatement Training Project

34A-1

Air Pollution Control

34A-2

Water Pollution Control

34A-3A

Safe Drinking Water

34A-6

Solid Waste Management

34A-9

Environmental Impact of Government Actions

34A-11

Hazardous Waste Management

34A-13

Petroleum Inspection and Release Compensation

46-1

Definitions and General Provisions (Water Rights)

46-2A

Administrative Procedure for Appropriate Water

46-5

Appropriation of Water

46-6

Groundwater and Wells

## 5.0 SD Administrative Rule:

74:36	Air Pollution
74:31	Asbestos Control Program
74:50	Compliance Procedures for Water Pollution
74:54	Groundwater Quality
74:28	Hazardous Waste
74:32	Petroleum Inspection and Release Compensation
74:34	Regulated Substance Discharge
74:27	Solid Waste
74:51	Surface Water Quality
74:52	Surface Water Discharge Permits
74:55	Underground Injection Control
74:04	Water Hygiene
74:50	Compliance Procedures for Water Pollution Control
74:53	Water Supply and Treatment Systems
74:21	Water Systems Operators
74:02	Water Rights

## 6.0 Reference Standards

ASME 31.9	Building Services Piping
ANSI C2	National Electrical Safety Code
NFPA 10	Portable Fire Extinguishers
NFPA 13	Automatic Sprinklers
NFPA 14	Standpipe and Hose Systems
NFPA 30	Flammable and Combustible Liquids Code
NFPA 55	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks.

## 7.0 Additional Standards

The following are a selection of additional trade organizations and standards that may govern the SDSTA's selection and installation of products.

ACGIH Threshold Limit Values  
American Concrete Institute (ACI) – ACI-318  
American Industrial Hygiene Association (AIHA)  
American Institute of Steel Construction (AISC) – Manual of Steel Construction  
American National Standards Institute (ANSI)  
American Society for Testing and Materials (ASTM)  
American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE)  
American Society of Mechanical Engineers (ASME)  
American Water Works Association (AWWA)

Institute of Electrical and Electronics Engineers (IEEE)

National Electrical Manufacturers Association (NEMA)

National Fire Protection Association (NFPA)

National Institute for Occupational Safety and Health (NIOSH)

National Institute of Standards & Technology (NIST)

Sanford Underground Research Facility Subterranean Design Criteria (EHS-1000-L3-05)

Underwriters Laboratories, Inc. (UL)

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**SDSTA Policies and Procedures—Mr. Mike Headley / Mr. Tim Engel**

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- 12A. Annual review of SDSTA Policies and Procedures
- Section 1
    - Public Comment Period, *new policy*
  - Section 2
    - Holidays Policy, *updated (deleted reference to administrative holidays declared by the President)*
    - Personnel Benefits Policy, *updated (medical benefits updated)*
    - Reimbursement of Goods and Services Policy, *new policy (request to include itemized receipts when submitting expense reports to Finance Office)*
    - Photography and Video Policy, *new policy*
- 12B. Board members to sign annual statements for 2018 affirming compliance with Financial Conflict of Interest, attached—return signed statements to Mandy Knight.

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**Recommended Action:**

*Motion to approve new and updated SDSTA policies as presented.*

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# SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY

## Procedure for Public Comment Periods

Pursuant to SDCL 1-25-1 as amended by House Bill 1172 in the 2018 Legislative Session the procedure for conducting public comment periods during meetings of the South Dakota Science and Technology Authority (SDSTA) shall be as follows:

The chair of the SDSTA shall reserve a period for public comment, limited at the chair's discretion, at each meeting.

Before the beginning of the meeting, all persons who wish to make comments during the comment period shall indicate their desire to do so on a form that will be provided by the Executive Director. The form shall indicate the person's name, city of residence and generally describe the matter or matters on which the person wishes to comment.

The amount of time allocated to each interested person who wishes to make comments will be determined at the chair's discretion at each meeting.

Comments must be limited to matters which are under the jurisdiction of the SDSTA.

All persons making public comments at meetings of the SDSTA must do so in a manner that maintains civility. Comments which contain offensive language or profanity will not be tolerated.

Adopted June 28, 2018

## Public Comment Form

Full Name: \_\_\_\_\_

City of Residence: \_\_\_\_\_

General Subject Matter of Comments: \_\_\_\_\_

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## HOLIDAYS POLICY

All employees at the South Dakota Science and Technology Authority (SDSTA) receive their regular pay for ten legal holidays plus any other day proclaimed as a holiday by the Governor of South Dakota ~~or the President of the United States~~. The SDSTA recognizes the following holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Native Americans Day	Second Monday in October
Veterans Day	November 11
Thanksgiving	Fourth Thursday in November
Christmas	December 25

If a holiday from the list falls on a Saturday, the preceding Friday is observed as the paid holiday. If a holiday falls on a Sunday, it is observed on the following Monday. Holiday pay is prorated based on the hours worked for employees who are working less than full time. For information about holiday pay provisions, contact the Human Resources Administrator.

Eligible employees will receive eight (8) hours of pay at their straight-time hourly rate of pay for each designated holiday. Employees required to work on the designated holiday will be paid their straight-time hourly rate of pay for all hours worked, plus their holiday pay for eight (8) hours.

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## **Personnel Benefits Policy**

It is the policy of the South Dakota Science and Technology Authority (SDSTA) to offer eligible employees a variety of benefit programs designed to help plan for retirement and to meet the financial burdens that can result from illness or disability. Eligibility for benefits is discussed in the Employment Policy.

### **A. Life and Accidental Death & Dismemberment (AD&D) insurance**

Both employer-paid life and AD&D insurances are provided for each employee, with a \$50,000 benefit. Employees may purchase additional coverage at their own expense.

### **B. Long-Term disability**

Employer-paid long term disability insurance is provided for each employee. Following a ninety (90) day waiting period, the monthly benefit consists of sixty percent (60%) of the first \$15,000 of monthly pre-disability earnings.

### **C. Health insurance**

~~Employer-paid health insurance is provided for each employee. Employees may purchase dependent coverage through SDSTA's group plan. Based upon funding, the SDSTA may elect to help subsidize the cost of dependent coverage. Employees may purchase health insurance coverage for themselves and their dependent(s) through SDSTA's group plan. Based upon funding, the SDSTA may elect to help subsidize the cost of health insurance coverage.~~ The coverage and premiums vary from year to year.

### **D. Dental**

Employer-paid dental insurance is provided for each employee. Employees may purchase dependent coverage at their own expense. The coverage available varies from year to year.

### **E. Vision**

Employer-paid vision care is provided for each employee. Employees may purchase dependent coverage at their own expense. The coverage available varies from year to year.

### **F. Medical expense and dependent care flexible spending accounts**

Employees may make pre-tax contributions to a flexible spending account for qualified medical expenses not covered by an insurance plan and dependent care expenses.

### **G. Paid holidays**

Ten (10) holidays per year plus any administrative holidays proclaimed by the Governor of South Dakota ~~or the President of the United States:~~

- New Year's Day
- Dr. Martin Luther King, Jr. Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Native American Day
- Veterans Day
- Thanksgiving
- Christmas

See additional details in the Holidays Policy.

## **H. Longevity pay**

Full-time employees are eligible for longevity pay after seven (7) years of service. See Years of Service and Longevity Pay Policy for complete details.

## **I. Retirement**

### **1. South Dakota Retirement System (SDRS):**

Employees are required to contribute 6% of their earnings (pre-tax) each pay period beginning at their date of hire. The SDSTA will also match the six percent (6%) contribution each pay period. After three years of contributory service, the employee is entitled to a vested monthly lifetime retirement benefit.

### **2. SDRS Supplemental Retirement Plan (SRP):**

Employees may make additional pre-tax or after-tax Roth contributions through the SDRS Supplemental Retirement Plan. These contributions are not matched by the SDSTA.

### **3. Special Pay Plan:**

The SDSTA is a participating unit of the Special Pay Plan, which provides eligible employees with two types of tax-efficient savings options, as well as additional retirement benefits. Under the Special Pay Plan, eligible members' lump-sum termination payouts are permanently exempt from Social Security taxes and, in addition, are free from federal income taxation until withdrawn from the plan. A participant has the option to invest the funds and any earnings will grow tax deferred until distributed from the plan. Withdrawals may be in the form of a single, lump-sum payment or as additional monthly retirement benefits.

4. Employees who have reached normal retirement age of 65 with at least three years of contributory service are eligible for unreduced retirement benefits under the SDRS. Normal retirement is the first of the month of the employee's 65<sup>th</sup> birthday. However, there is no mandatory retirement age at the SDSTA.

5. Early retirement:

Employees may retire as early as age 55 and receive retirement benefits if they have at least three years of contributory service. If payments begin immediately, the employee's monthly lifetime retirement benefits will be reduced.

6. Disability:

If an employee is unable to work because of a disability expected to last one year or longer, they may be eligible to receive a monthly benefit from SDRS. The SDRS also provides disability coverage for employees who have three years of consecutive contributory service. However, if the employee is accidentally disabled while performing the usual duties of their job, they are immediately eligible to apply for benefits. The employee must be a contributing member at the time they become disabled.

Additional information regarding retirement benefits is available at <http://www.sdrs.sd.gov/spp/>.

## **J. Social security**

As mandated by law.

## **K. Training and professional development**

The SDSTA does not have an education or tuition assistance program. However, a Department Director and/or Executive Director of the SDSTA may determine the need for a variety of training for all or selected employees which may include professional development training, computer training, safety training, certifications, license exams and other work-related training opportunities. Employees are required to complete a consent form which must be approved by the Department Director and/or Executive Director prior to any training/professional development commitments. The time employees spend taking either mandatory or supervisor recommended training is considered time worked.

Fees for training/professional development are not automatically reimbursed. Professional memberships/certifications/licenses or renewals that are work-related will be reimbursed at the discretion of the Department Director and/or the Executive Director. In cases where a fee exceeds \$1,000.00, and an employee voluntarily leaves the employ of the SDSTA within one (1) year following training/certification, the employee shall repay all such training-related expenses paid by the SDSTA. Exceptions may be made for an employee unable to continue due to illness or injury, dismissal or a reduction in workforce. An employee's obligation to reimburse SDSTA as provided in this paragraph may not be enforced by withholding salary if doing so would result in the employee's salary being less than the applicable minimum wage.

## **L. Employee Assistance Program (EAP)**

The EAP was established to provide professional, confidential assistance for any type of personal problem such as alcohol and other substance abuse, marital and family difficulties, financial and legal troubles and emotional distress.

All full-time employees and their dependents are eligible to receive assistance through the EAP to assess problems, provide short-term counseling and, if necessary, make a referral to appropriate community and private services. The EAP will not reveal any information that the individual discloses to the EAP except in the following circumstances:

- The employee consents in writing
- The law requires disclosure, or
- It is believed that life or safety is threatened by non-disclosure

Employees are responsible for their performance and for taking constructive action to resolve any personal problems that affect or threaten to affect their on-the-job behavior. Managers and supervisors are responsible for remaining alert to all instances of substandard work performance and bringing these instances to the attention of the employee, along with an offer of assistance, at the earliest indication of a problem.

When an employee's job performance or attendance is unsatisfactory or there appears to be signs of other problems during the work day, the supervisor should counsel the employee in consultation with Human Resources. If an employee appears to be unable or unwilling to correct the situation, s/he may be referred to the EAP to assist in the resolution of the problem. Depending on the situation, the employee may accept or refuse participation in the EAP. However, there may be situations where continued employment with the SDSTA may be contingent upon the employee calling the EAP for assistance. Participation in the EAP in no way relieves the employee of the responsibility to meet acceptable work performance and attendance standards.

Employees who need to visit the EAP during regular working hours must use vacation or sick leave benefits, if available. If illness is involved, sick or vacation benefits or unpaid time off may be used on the same basis that it is granted for other health problems.

## **M. Workers' Compensation**

As required by law. If injured, an employee must notify his or her supervisor immediately. All injuries must be reported to the Environment, Safety and Health Department and a First Report of Injury completed and signed within three (3) days of the injury. Failure by the employee to report an injury on time may result in denial of the claim.

Employees should refer to the insurance summary plan description provided at the benefit enrollment meeting for details of each insurance plan or contact the Human Resources Administrator. Eligibility for specific benefits under the SDSTA's insurance program is governed at all times by the complete terms of the respective group insurance policy.

The SDSTA's benefit programs are subject to change without notice. Employees should contact the Human Resources Administrator for details concerning any of their benefit plans.

An employee's medical, dental, vision and life insurance will cease on the last day of the month of termination. Continuation of Benefits, which include medical, dental and vision, may be available under Title X of the Consolidated Omnibus Budget Reconciliation Act (COBRA) Law of 1985 upon termination. The employee must contact the Human Resource Administrator if continued coverage is desired.

Vacation and sick leave benefits are described in the Leave Policy.

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## **PHOTOGRAPHY AND VIDEO POLICY (SECTION 2 OF MANUAL)**

The South Dakota Science and Technology Authority (SDSTA) owns all copyright and other intellectual property interests in and to any photos, videos or recordings taken by SDSTA employees while on duty and in the normal course of business. Photos, videos or recordings cannot be sold or used for profit by any SDSTA employee. Employees are not entitled to additional compensation for producing photos, videos or recordings.

Employee likenesses may appear in photos, videos and recordings which could be used in news articles and promotional material for the Sanford Lab. Employees are not entitled to any additional compensation on account of such use of their likeness.

All requests related to photographs or videos for commercial use shall be referred to the SDSTA Communications Department.

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## **REIMBURSEMENT OF GOODS AND SERVICES POLICY (SECTION 2 OF MANUAL)**

When requesting otherwise allowable reimbursement for goods, services, or meals, including those charged to a hotel room, an itemized invoice, receipt, or ticket, not just a credit card slip, must be provided.

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## Conflict of Interest Statement

In accordance with Article VII of the South Dakota Science and Technology Authority (SDSTA) Financial Conflict of Interest Policy, this statement affirms that the undersigned:

- a. Has received a copy of the Financial Conflict of Interest Policy,
- b. Has read and understands the policy, and
- c. Has agreed to comply with the policy.

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*Signature*

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*Date*

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*Printed Name*

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**Executive Session—Chairperson Casey Peterson**

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Meeting closed to public during executive session. See recommended motion below.

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**Recommended Action:**

*Motion to enter executive session to discuss personnel matters and to consult with legal counsel concerning contractual and legal matters.*

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**Report from Executive Session—Chairperson Casey Peterson**

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*See recommended motion below...*

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**Recommended Action:**

*“The board consulted with legal counsel concerning contractual and legal matters. No action was taken.”*

*OR*

*...as discussed and stated otherwise*

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**Approval of Memorandum of Understanding—Mr. Mike Headley**

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Attached is the draft Memorandum of Understanding between SDSTA and FRA, LLC.

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**Recommended Action:**

*Motion to approve Memorandum of Understanding with Fermi Research Alliance, LLC, and to authorize the SDSTA Chairperson, in consultation with the Executive Director and Legal Counsel, to finalize the terms of the MOU and for the Chairperson to sign it.*

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**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**SOUTH DAKOTA SCIENCE AND TECHNOLOGY AUTHORITY**  
**AND**  
**FERMI RESEARCH ALLIANCE, LLC**

This Memorandum of Understanding (“MOU”) is entered into by and between the South Dakota Science and Technology Authority (“SDSTA”), as operator of the Sanford Underground Research Facility (“SURF”) and Fermi Research Alliance, LLC (“FRA”), as operator of the Fermi National Accelerator Laboratory (“Fermilab”) (referred to hereinafter as the “Parties”) under U.S. Department of Energy (“DOE”) Contract Number DE-AC02-07CH11359.

**Purpose and Vision**

This MOU contemplates joint activities between FRA and SDSTA, acting as partners for the purposes of the Long Baseline Neutrino Facility / Deep Underground Neutrino Experiment (LBNF/DUNE or the “Project”), which are intended to facilitate the safe and otherwise successful operation of SURF and construction and operation of the far-site detector for the LBNF/DUNE Project. FRA operates and manages Fermilab, which is the lead laboratory for LBNF/DUNE, and host laboratory to LBNF/DUNE in Batavia, Illinois, and Lead, South Dakota. SDSTA owns and operates SURF, which is the supporting laboratory for LBNF/DUNE in Lead, South Dakota.

**The Parties acknowledge that the successful and safe completion of LBNF and DUNE construction and successful transition to experimental operations is a foundational imperative for the future success of both Fermilab and SURF and therefore must be the paramount objective of both FRA and SDSTA.**

The Parties further acknowledge that success executing LBNF/DUNE requires fostering a sustainable, long-term federal/state/local/international/private partnership that will create a platform for world-leading underground science that addresses fundamental questions about the nature of the universe. Success also requires that SURF operate in a safe and efficient manner in accordance with standards jointly agreed to between SDSTA and FRA, as well as all applicable state and federal laws. In addition to the core vision explained herein, expansion of educational opportunities and encouragement of economic development are priorities of both Parties.

## **Environment, Safety, and Health**

The Parties acknowledge their full and steadfast commitment to the safety of persons and property, protection of the environment, attention to the concerns of the surrounding communities, and respect for cultural sensitivities, including but not limited to those of Native Americans as they relate to the Black Hills region of South Dakota.

## **Scope and Applicability**

This MOU relates to all DOE-sponsored activities funded through FRA at SURF in Lead, SD, and recognizes the mutual interests of the Parties as well as the need for cooperation while pursuing the goals of scientific research during the duration of the LBNF Project and DUNE. Coordination among the Parties regarding the LBNF/DUNE Project is necessary to ensure project success and efficient and safe operations at SURF while meeting LBNF/DUNE requirements.

## **Contributions of Parties**

SDSTA owns and operates SURF, which has been selected by the international particle physics community and DOE as the “far site” of the LBNF/DUNE project. SURF is also the host for several other DOE-funded experiments, as well as experiments funded by third parties. The State of South Dakota facilitated the donation of the facility to SDSTA and to date has made financial contributions to facilitate acquisition and development of the site (public and private) of approximately \$150 million. Because SDSTA owns and operates the facility, the success of the LBNF/DUNE project requires the best efforts, cooperation, and commitment of SDSTA.

FRA manages and operates Fermilab, which was chosen by DOE and entrusted by the international particle-physics community to construct LBNF and establish the international collaboration for DUNE, as well as to serve as the host laboratory for LBNF and DUNE in Illinois and South Dakota. As such, the success of the LBNF/DUNE project requires the best efforts, cooperation, and commitment of FRA.

The safe and effective operation of SURF is critical to the success of LBNF/DUNE. To that end, SDSTA is responsible for site-wide safety, security, and emergency management at SURF. For its part, FRA is responsible for the safety of FRA staff and subcontractors, and for supporting and strengthening SURF’s capabilities and ensuring that SDSTA is best situated to meet all applicable construction, safety, and operations responsibilities.

## **Governance**

This MOU describes a governance model that integrates a number of existing and anticipated bilateral agreements between the Parties. This governance model reflects the roles of

Fermilab and SURF as the host and supporting laboratories, respectively, for LBNF/DUNE in South Dakota, and defines the roles and responsibilities, conflict resolution, lines of communication, and governing regulations that apply to FRA and SDSTA. Under existing and anticipated bilateral agreements between FRA and SDSTA that provide funding through DOE Contract Number DE-AC02-07CH11359 (the “Prime Contract”), both Parties are subject to certain requirements of federal government contractors, including requirements that flow from the Prime Contract, Federal Acquisition Regulations (“FAR”) and Department of Energy Acquisition Regulations (“DEAR”), and federal law. Nothing in this MOU changes or otherwise relieves either party from requirements under existing bilateral agreements.

**A. Standard Forms of Agreements**

The Parties have entered into or expect to enter into contracts that, collectively, make up the governance model contributing to the successful delivery of the LBNF/DUNE project and reflect the following relationships:

- Traditional Prime/Subcontractor
- Landlord/Tenant
- Easement Owner/Assignee

A listing of the existing contracts and their purpose is set out below. Future agreements between the Parties may be entered into and appended herein without executing any modification or revision to this MOU, unless expressly requested by one of the Parties.

**B. Contracts**

<u>Existing Contracts</u>	<u>Purpose</u>	<u>Parties</u>
SURF Services	Operations (not construction)	FRA – SDSTA
Ross Shaft Refurb	Refurbishment construction	FRA – SDSTA
LBNF Staff Services	Engineering support to the LBNF project	FRA – SDSTA
DOE Lease	Land lease	SDSTA – DOE
DOE Easement	Temporary construction easement	SDSTA – DOE
SDSTA Easements	Third party easements	SDSTA – Barrick SDSTA – Lead
Homestake PDA	Transfer of property to SDSTA	Homestake – SDSTA
 <u>Planned Contracts</u>		
Ross Hoist Ops	LBNF Support Service for exclusive use of Ross Shaft during Project construction (with limited exceptions)	FRA – SDSTA
Reliability Projects	(individual)	FRA – SDSTA
Easement assignments	Assignment of third party easements	SDSTA – TBD
Licenses	Access	SDSTA & FRA

Additionally, the Parties recognize that in the course of the FRA-SDSTA alliance to execute LBNF/DUNE there are and will be a number of activities that are implied but not expressly stated in existing contracts, including:

- SDSTA is providing access to SURF to facilitate the construction of LBNF/DUNE
- SDSTA is facilitating access (for FRA and its concomitant DOE oversight) to certain third-party property
- Participation in various DOE and other reviews
- Assessments, evaluations, and/or certain audit activities.

The Parties acknowledge that in order for the LBNF/DUNE project to be successful, each must participate in good faith in the types of activities identified above. To the extent that any of the activities create a material burden on resources, the Parties agree to formalize the activity as a requirement in an existing or future agreement.

Without committing to enter into any future agreements and understanding that any such future agreement is contingent upon available funds and other requirements, the following future agreements might be required:

- Future Contract - DUNE Operations Support
- Long Term - Decommissioning Plan (consistent with the latest version of said Plan).

As the LBNF/DUNE project progresses, and as the level of future operations- engagements increase, the Parties understand that the present relationship based on traditional contractor/subcontractor and landlord/lessee may not be optimal. In the event a different governance and/or contracting model is required, the parties agree to work together in good faith to establish an appropriate future model of operations. As the LBNF/DUNE initiative approaches milestones, the Parties will consider appropriate adjustments to the underlying agreements.

### **C. Roles and Responsibilities**

The Parties recognize and anticipate the ongoing contributions of their respective representatives to the success of LBNF/DUNE as follows:

SDSTA Executive Director (ED) and SURF Laboratory Director

- Ensure SDSTA performance and alignment in support of this MOU and all other agreements between SDSTA, FRA, and/or DOE
- Resolve conflicting priorities at SURF to ensure the execution of LBNF/DUNE, the success of which is necessary to the success of SDSTA, while recognizing the needs of other DOE-funded experiments hosted at SURF
- Communicate with and be responsive to local governments, state officials, SDSTA Board of Directors



#### SDSTA Board

- Oversee activities of SDSTA ED
- Report to South Dakota Governor's Office and Legislature
- Advise and support SDSTA mission

#### SDSTA ESH Director

- Develop and implement the ESH Program in support of SDSTA line managers
- Coordinate with FRA to monitor and maintain common expectations and standards for worker safety at SURF across all areas
- Oversee and assure ESH performance to SDSTA ED
- Foster a strong culture of safety and continuous improvement
- Report operational incidents to FRA

#### FRA Board

- On behalf of FRA members, Universities Research Association (URA) and The University of Chicago provide oversight and guidance to Fermilab leadership
- Advise and support for Fermilab mission

#### FRA SD Services Division Head

- Assure SDSTA performance and alignment in support of this MOU and all other agreements between SDSTA, FRA, and/or DOE
- Coordinate FRA and DOE-sponsored activities at SURF
- Liaise and communicate with Fermilab functional resources
- Arrange and support DOE and FRA-related visits incl. DUNE collaborators
- Primary point of contact among Fermilab, DOE site office and SDSTA leadership
- Maintain an integrated Risk Management Plan at SURF
- Represent FRA DOE interests as a part of SDSTA's Emergency Response Plan

#### FRA Deputy Director for LBNF

- Ensure DOE and Fermilab mission success at SURF
- Direct and advocate for LBNF/DUNE Project
- Communicate with and be responsive to FRA Board, Fermilab Director and DOE

#### FRA Chief Safety Officer

- Establish ESH requirements and expectations between FRA and SDSTA with focus on maintaining common expectations and standards for worker safety at SURF across all areas
- Develop and implement the FRA ESH Assurance Program in support of SDSTA Operations
- Provide support and subject matter expertise to FRA SD Services Division Head
- Liaise with DOE ESH Assurance Programs
- Communicate with Fermilab Director and FRA Deputy Director for LBNF about overall safety performance at SURF and serves as primary point-of-contract for safety related to FRA-supported activities to DOE and other stakeholders

#### **D. Communications**

FRA and SDSTA will collaborate on communications and public affairs activities that relate to the scope of this MOU. SDSTA recognizes that FRA must follow certain requirements and protocols – including Prime Contract Clause I.72, DEAR 952.204-75 and related procedures and processes from the Department of Energy – that also flow to SDSTA as subcontractor. FRA recognizes that SDSTA must comply with certain statutory requirements, such as SDCL 1-16H-38 (informational budget and other reporting to the Governor's Office of Economic Development), SDCL Ch. 1-25 (open meetings), and SDCL Ch. 1-27 (open records), as well as reporting to the appointing authority (Office of the Governor) and keeping the Legislature, citizens of South Dakota, and other stakeholders informed concerning its activities. Both parties agree to work in good faith to accommodate their respective obligations, and to establish a separate communications and public affairs protocol to implement these obligations and other processes.

#### **E. Ethics and Compliance — Conflicts of Interest**

The Parties maintain and execute robust ethics and compliance programs and acknowledge the criticality of such programs to the success of LBNF/DUNE. The Parties further acknowledge that existing and anticipated bilateral agreements that provide funding through the Prime Contract require compliance with ethics and compliance rules applicable to federal government contractors.

The Parties acknowledge the potential for conflicts of interest related to participation in delivery of the LBNF/DUNE project or in supporting operational activities at SURF and commit to work diligently to identify apparent or actual conflicts, and develop mitigation plans as appropriate. Both Parties' ethics and compliance programs are designed, in part, to facilitate the management of conflicts as they arise.

#### **F. Disputes**

The Parties acknowledge that even in the most successful venture, disputes might arise that require resolution. In all instances, including in the resolution of disagreements and disputes, the Parties will endeavor in good faith to promote the success of LBNF/DUNE, which the Parties acknowledge is of paramount importance to the long-term success of Fermilab and SURF.

To the extent any such disputes arise in connection with an existing contract between the Parties, the dispute resolution process set out in that contract will govern.

Disputes concerning conflicts among non-LBNF/DUNE scientific occupants at SURF, will be resolved as follows: A number of documents, interfaces, meetings and other tools (such as databases for managing the number of underground personnel as well as the transport of materials) will be utilized for identifying and managing needs for limited resources at SURF. The agreements with each non-LBNF/DUNE research group state that shared laboratory spaces will be coordinated by SURF and that any conflicts will be resolved by SDSTA. The SDSTA Science Director (or designee) will endeavor to manage conflicts with experiment groups. The SURF Laboratory Director has oversight responsibility for all facility resources outside LBNF/DUNE leased space and will adjudicate issues that cannot otherwise be resolved. Specific

instances may require the SURF Laboratory Director (or designee) to define allocations of the total underground occupancy to specific groups when occupancy numbers near the underground personnel limit as stated in the SURF "Facility Access—Underground" policy.

With respect to disputes involving LBNF/DUNE, the Parties will utilize the following dispute resolution process. First, FRA Far-Site Conventional Facilities Manager will attempt to resolve the matter with the SURF Laboratory Director (or designee). Second, if no resolution is agreed upon, the matter will be escalated to the FRA Deputy Director for LBNF and SURF Laboratory Director. Third, if the FRA Deputy Director for LBNF and SURF Laboratory Director cannot resolve the matter, the Parties agree to participate in non-binding mediation. If the Parties cannot agree on a mediator, they shall each designate a mediator, who shall then agree upon a third mediator. The mediator chosen by the mediators designated by the Parties shall then attempt to resolve the dispute. Unless otherwise agreed by the Parties, any such mediation must be concluded within 90 days of first being presented for mediation. Matters requiring resolution sooner than 90 days shall be expedited to the fullest extent possible.

For all other disputes, the Parties will utilize the following dispute resolution process. First, the head of the respective departments most directly affected by the dispute will attempt to resolve the matter. Second, if no resolution is agreed upon, the matter will be escalated to respective laboratory directors. Third, if the laboratory directors cannot resolve the matter, the Parties agree to participate in non-binding mediation. If the Parties cannot agree on a mediator, they shall each designate a mediator, who shall then agree upon a third mediator. The mediator chosen by the mediators designated by the Parties shall then attempt to resolve the dispute. Unless otherwise agreed by the Parties, any such mediation must be concluded within 90 days of first being presented for mediation. Matters requiring resolution sooner than 90 days shall be expedited to the fullest extent possible.

Nothing herein is intended to limit the right of either party to seek resolution in a court of competent jurisdiction if the internal dispute resolution process described herein fails or if the matter requires resolution prior to the time necessary to participate in this internal dispute resolution process.

Each party shall bear its own attorney fees and related costs incurred in connection with the resolution of disputes under this clause. The parties will share equally in the fees and costs of any mediator.

## **G. Insurance and Liability**

The parties acknowledge that risk management is a key component of the successful delivery of the LBNF/DUNE project, and commit to working together, including with the various third-party stakeholders, to facilitate risk analysis and management. Without limiting the generality of the foregoing, the parties recognize that the Property Donation Agreement among SDSTA, Homestake Mining Company of California and others (the "PDA") imposes certain insurance and other risk management requirements as a condition to SDSTA's ongoing occupancy and operation of SURF. The Parties will work diligently to ensure compliance with all insurance and other risk management requirements of the PDA and DOE, as well as the

applicable corporate and/or site-specific requirements of SDSTA and FRA, provided those requirements are in writing.

#### **H. Site Access and Control**

SDSTA has established a process for access to the SURF site, which FRA will follow throughout the life of the Project. SDSTA will be the single point of access for contractors and scientists, with the exception of LBNF/DUNE. FRA is responsible for its sponsored personnel, including LBNF/DUNE. FRA shall control access to DOE or FRA leased spaces relating to LBNF/DUNE. FRA is responsible for ensuring that its personnel and visitors comply with SURF site rules.

#### **I. Decommissioning**

The parties recognize the need for the prompt adoption of a reasonable decommissioning plan, keeping in mind the requirement to avoid unfunded obligations. Any such plan must take into account the need to remove or abandon in place (as appropriate and safe) experiment infrastructure, safely secure the relevant portions of SURF, and address any ongoing security, monitoring or other requirements. The Parties decommissioning plan will be consistent with the latest version of the *LBNF/DUNE Preliminary Decommissioning Plan*.

### **General Provisions**

#### **A. Duration**

The initial term of this MOU shall be five years, with the option to renew upon mutual written agreement of the Parties for additional terms of one year per renewal.

Upon expiration of the term of this MOU (as renewed), the conclusion of civil construction of LBNF/DUNE, the cessation of funding for LBNF/DUNE, or other substantial change in circumstances, whichever occurs first, the Parties will as appropriate given the circumstances in good faith renegotiate the terms of this MOU.

During the term of this MOU, including any renewal terms, the Parties will at least annually review and update the terms hereof, including any necessary and appropriate updates to Addenda or Exhibits.

Anything in the foregoing notwithstanding, this MOU shall terminate upon sixty (60) days written notice given by either Party to the other of any of the following events:

- (a) FRA is no longer the Maintenance and Operation prime contractor for Fermilab National Accelerator Laboratory;
- (b) SDSTA no longer has ownership or control of SURF;
- (c) Permanent cessation of funding for LBNF/DUNE; or
- (d) Any other change in circumstances so substantial as to affect the underlying nature and purpose of this MOU.

**B. Other**

This MOU does not create any legally binding obligations between or among the Parties.

The conduct of cooperative activities contemplated by this MOU is subject to the availability of funding, personnel, and other resources.

The Parties are each responsible for their respective costs incurred in participating in cooperative activities under this MOU.

Any activities agreed to under this MOU, activities agreed to in addenda under this MOU, or agreements developed as a result of this MOU will be in accordance with applicable laws, regulations, and agreements to which each party is subject, as well as with the Property Donation Agreement (PDA) between and among Homestake Mining Company of California, the State of South Dakota, and SDSTA.

**Signed:**

\_\_\_\_\_  
Mike Headley  
Executive Director  
South Dakota Science and Technology Authority

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Date

\_\_\_\_\_  
Nigel Lockyer  
Laboratory Director  
Fermi Research Alliance, LLC

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Date

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**Report on Nominating Committee—Mr. Dana Dykhouse**

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**Nominating Committee Report**

May 31, 2018

**Participants:**

Mr. Dana Dykhouse, SDSTA Board of Director and Nominating Committee Chair

Dr. Ani Aprahamian, SDSTA Board of Director and Nominating Committee Member

Mr. Dykhouse and Dr. Aprahamian communicated as the nominating committee on May 31, 2018 for the purpose of nominating the slate officers for the 2018-2019 board year. The slate of officers is as follows:

Chairperson: Mr. Casey Peterson

Vice-Chairperson: Mr. Dana Dykhouse

Vice-Chairperson: Mr. Ron Wheeler

Secretary Treasurer: Ms. Patricia Lebrun

The nominating committee has contacted all of the candidates and they are each willing to serve in this capacity for another year.

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**Recommended Action:**  
*Informational.*

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**Election of Officers—Chairperson Casey Peterson**

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South Dakota Science and Technology Authority  
Election Procedures Policy  
Adopted 6/24/08

The Board of Directors shall follow the following procedure for the nomination and election of officers.

- A. The nomination and election process shall be held in open session.
- B. At the last meeting of the Board before the Annual Meeting, the Chairperson shall appoint a Nominating Committee.
- C. The following procedure shall be utilized at the Annual Meeting:
  1. The Chairperson shall call for the report of the Nominating Committee.
  2. After the Nominating Committee reports, the Chairperson shall ask if any Board member intends to make additional nominations.
  3. If no Board member indicates the intention to make additional nominations, the Chairperson shall call for a motion to elect the slate recommended by the Nominating Committee.
  4. If any Board member indicates the intention to make an additional nomination for any office, the slate recommended by the Nominating Committee shall be deemed rejected and the following procedure shall be utilized:
    - a. The Chairperson shall call for oral nominations for the office of Chairperson. Once it appears that all nominations have been made, a motion that nominations cease would be in order. This motion may be made with or without a call for such motion by the Chairperson.
    - b. If there is only one nominee, a motion that all nominations cease and that the nominee be elected Chairperson would be in order. This motion may be made with or without a call for such motion by the Chairperson.
    - c. If there is more than one nominee, nominations shall continue until there is a successful motion that nominations cease.
    - d. Upon passage of a motion that nominations cease, the Chairperson shall call for a vote. Each Board member shall announce his or her vote out loud. Counsel for the Authority shall tabulate the vote and announce the results.
    - e. The successful candidate shall immediately take office as Chairperson and conduct the remainder of the election and the meeting.
    - f. The Chairperson shall follow the procedure set forth above for each of the remaining offices.
- D. Pursuant to SDCL 1-16H-11, the affirmative vote of no less than four Board members is necessary to elect any officer. If no candidate receives four votes, the Board will vote twice more. If no candidate receives four votes after three attempts, the election for that office will be deemed adjourned until the next meeting of the Board. At the next meeting, the Board shall commence the election procedure set forth above in Section C.4, but only as to any office not filled at the prior meeting. This procedure shall continue from meeting-to-meeting until a candidate receives at least four votes. Pursuant to Article III, Section 1 of the Bylaws, the officers in office as of the commencement of the Annual Meeting shall remain in office until their successors are duly elected.

This policy shall remain in effect until specifically rescinded or modified.

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**Recommended Action:**

*Motion to accept the report from the nominating committee and to elect the slate of officers as discussed.*

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**Confirm date and time of next meeting—Chairperson Casey Peterson**

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The next board meeting will be held on Tuesday, September 18, beginning at 8:00 AM (Mountain Time).

<b>2018 Regular Board Schedule</b>	
March 29, 2018	08:00 am (MT)
June 28, 2018	08:00 am (MT)
<b>September 18, 2017</b>	<b>08:00 am (MT)</b>
December 13, 2018	09:00 am (MT), lunch provided

*South Dakota Science and Technology Authority  
Sanford Underground Research Facility  
Education & Outreach Building (large conference room)  
630 E. Summit Street, Lead SD 57754  
Questions? Contact Mandy Knight, [mknight@sanfordlab.org](mailto:mknight@sanfordlab.org)  
Direct Line: 605.722.4022, Cell: 605.641.0475*

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**Recommended Action:**  
*Informational.*

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**Public Comments—Chairperson Casey Peterson**

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**Recommended Action:**

*None.*

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**Board Comments—Chairperson Casey Peterson**

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1. Dr. Ani Aprahamian
2. Mr. Paul Christen
3. Mr. Dana Dykhouse, Vice-Chairperson
4. Ms. Pat Lebrun, Secretary-Treasurer
5. Mr. Casey Peterson, Chairperson
6. Dr. Jim Rankin, Ex-officio member
7. Mr. Ron Wheeler, Vice-Chairperson
8. Dr. Robert Wilson

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**Recommended Action:**

*None.*

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