

## **FALL RIVER COUNTY APPROVED MINUTES OF DECEMBER 15, 2022**

The Fall River Board of County Commissioners met in regular session on December 15, 2022. Present: Joe Allen, Les Cope, Joe Falkenburg, Deb Russell and Sue Ganje, Auditor. Heath Greenough was absent.

The Pledge of Allegiance was given, and the meeting called to order at 9:00 a.m.

The agenda was reviewed for conflicts; none were noted. ALL MOTIONS RECORDED IN THESE MINUTES WERE PASSED BY UNANIMOUS VOTE, UNLESS OTHERWISE STATED. The full context of the meeting can be found on the county website under Commissioners at <http://fallriver.sdcounties.org>, or under Fall River County Commission, SD at <http://www.YouTube.com>.

Motion made by Allen, seconded by Russell, to approve the agenda as written.

Motion made by Russell, seconded by Allen, to approve the minutes of December 1, 2022.

Motion made by Russell, seconded by Allen, to approve the November Auditor's Account with the Treasurer, as follows and noting the two large returned checks:

### **AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER**

TO THE HONORABLE BOARD OF FALL RIVER COUNTY COMMISSIONERS:

I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of this County on this 30th day of November 2022.

<b>Total Amount of Deposit in First Interstate Bank, HS:</b>	\$	168,873.58
<b>Total Amount of Deposit in First National Bank-ARP Checking, Lead:</b>	\$	1,000.00
<b>Total Amount of Cash:</b>	\$	4,937.36
<b>Total Amount of Treasurer's Change Fund:</b>	\$	900.00
<b>Total Amount of Checks in Treasurer's Possession Not Exceeding Three Days:</b>	\$	34,240.81
<b>SAVINGS:</b>		
#4) First Interstate Bank, HS:	\$	232,775.59
#18) First National Bank of Lead-ARP ICS Acct	\$	1,032,453.31
#20) First National Bank of Lead-RAI MM Acct	\$	111,968.50

### **CERTIFICATES OF DEPOSIT:**

#8) Black Hills Federal Credit Union, HS:	\$	250,000.00
#14) Schwab Treasury:	\$	951,710.11
#15) First National Bank, Lead:	\$	318,473.31
#21) Schwab Treasury 2 Yr:	\$	265,620.94
#22) Schwab Treasury 2 Yr:	\$	969,667.97
#23) Schwab Treasury 2 Yr:	\$	969,687.50
#24) Schwab Treasury 2 Yr:	\$	1,994,796.88
#25) Schwab Treasury 3 Yr:	\$	1,931,250.00
#26) Schwab Treasury 4 Yr:	\$	992,743.13

**Itemized list of all items, checks and drafts that have been in the Treasurer's possession over three days:**

Register of Deeds Change Fund:	\$	500.00
Highway Petty Cash:	\$	20.00
Election Petty Cash:	\$	15.00

**RETURNED CHECKS:**

Rolling Homes LLC	\$	1,341.60
Farrell, Michael	\$	3,846.26

**TOTAL \$ 10,236,821.85**

Dated This 30th Day of November 2022.

/s/Sue Ganje, County Auditor of Fall River County

/s/Teresa Pullen, County Treasurer of Fall River County

County Monies	\$	9,589,052.41
Held for other Entities	\$	444,380.66
Held in Trust	\$	203,388.78
<b>TOTAL</b>	<b>\$</b>	<b>10,236,821.85</b>

The Above Balance Reflects County Monies, Monies Held in Trust, and Monies Collected for and to be remitted to Other ENTITIES: SCHOOLS, TOWNS, AND STATE.

Motion made by Russell, seconded by Allen, to approve pay raises for Jonathan Harris (Deputy Sheriff), a transfer of certification, \$18.50 to \$19.50, effective December 7, 2022, Malachiah Fleming (Jailer), 4160 hours, \$17.50 to \$18.50, effective December 19, 2022 and Hayley Rough Surface (Jailer), 2080 hours, \$16.50 to \$17.50, effective December 14, 2022 and longevity pay for Wesley Wood (Maintenance), \$25.00 per month, as per union contract.



Motion made by Russell, seconded by Allen, to approve setting a supplement and contingency hearing for December 29, 2022 at 9:05 a.m.

Discussion was held on setting a hearing for 1<sup>st</sup> reading of the cannabis ordinance on January 5, 2023, to amend license fees. State's Attorney Russell would like to draft some medical cannabis processes for the Board to review at that meeting, before moving forward with amending the ordinance and changing the license fees.

Motion made by Russell, seconded by Cope, to surplus to junk a Canon Pixma MG3620 Printer and a Fujitsu Esprimo, #02287, Auditor's Office.

There were no applicants for county assistance.

Bob Evans, Sheriff, reported to the Board, that there are 10 males and 4 females in the Fall River County Jail, with 2 males and 1 female in the Pennington County Jail, for a total of 17 inmates.

Motion made by Allen, seconded by Russell, to approve Training request for Deputy Belt for Investigative Interviewing Techniques Seminar, Casper, WY, January 9 – January 11, 2023, in the amount of \$495.00, plus hotel stay at the C'Mon Inn, in the amount of \$288.00, for a total of \$783.00.

Erin McGlumphy, Extension, met with the Board. Motion made by Allen, seconded by Cope, to approve the Golden West Quote for an HP ProBook 455, in the amount of \$2,026.50.

Motion made by Russell, seconded by Allen, to approve hiring Alexis Madson, \$14.00 per hour, or dependent on the negotiated wage changes, effective January 3, 2023.

Lance Russell, State's Attorney, reported to the Board that he is still working on doing more research on public defenders rather than using court appointed attorneys; he will bring it back to the first meeting in January.

State's Attorney Russell will also be working with Attorney Cole Romey and Highway Superintendent Seiler to determine the maintenance needed on South Beef Creek Road and return to the Board with recommendations for a decision.

Shawn Burke, Executive Director, Western South Dakota Community Action, reported to the Board about working more on rural and low income assistance, as well as emergency needs. Discussion was held on the Feeding South Dakota programs, the outreach of Community Action services so the public is better informed, hiring to fill another position within the company, the Senior Health Insurance Information Network (SHINE), and the unknown future of the Community Action store in Hot Springs, since the building has sold. Additional comments were heard about creating regions for civic help and making additional name recommendations to add members to the Board.

The supplement and contingency hearing was held. Motion made by Russell, seconded by Allen, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2022-56**

**Supplemental Budget 2022, #4**

**Contingency Transfer 2022, #5**

WHEREAS, SDCL 7-21-22 provides that the Board of County Commissioners may adopt a supplemental budget, and whereas, as due and legal notice has been given, the following Supplements to expenditures for December 15, 2022 be approved as follows: General Fund: General Transfers Out 10100X4290911, \$206,500 Designated from Gen Surplus; Hwy Fund: Hwy Road Projects 20100X4251311, \$157,174.89; ARPA Fund: Transfer Out 29000X4290911, \$397,506.50; Means of finance to be cash, and

WHEREAS, SDCL 7-21-32.2 provides that the Board of County Commissioners may adopt a transfer appropriation from the contingency budget to other appropriations, which are insufficient, a contingency transfer shall be approved and adopted to the following Departments: St Attorney Salaries 10100X4110151, \$6,346.36; Juvenile Care 10100X4272215, \$14,499.58; Court Appointed Attorney Fees 10100X4260153, \$33,160.13; Search & Rescue 10100X4260224, \$377.20; Mental Illness Board 10100X4221445, \$5,118.75

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners to adopt the Supplemental Budget #4 and Contingency Transfer #5 for 2022.

Dated at Fall River County, South Dakota this 15<sup>th</sup> day of December 2022.

/s/Joe Falkenburg

Fall River County Board of Commissioners

ATTEST:

/s/Sue Ganje

Fall River County Auditor's Office

With Cope voting no, all others voting yes, motion carried.

Randy Seiler, Highway Superintendent, met with the Board. Motion made by Russell, seconded by Cope, to approve the approach permit for Geoff and Karena Benway, a road connection to the left (west) side of W G Flats Loop, Road 2B approximately at .3 mile North of E Oral Road and will serve a residence.

Discussion was held on who maintained the approach permits and watching for certain things in the future.

Motion made by Russell, seconded by Allen, to approve hiring Cory Amthor at \$18.05 per hour, or dependent on the negotiated wage changes, effective December 21, 2022.

Motion made by Allen, seconded by Cope, to approve the pipeline easement for Lori and Tim Allen, adjacent to the SENE Quarter of Section 2 in Township 8, Range 2, and the NESE Quarter of Section 2 in Township 8, Range 2, of the Black Hills Meridian, Fall River County,



South Dakota and the pipeline to run from the SENE Quarter of Section 2 in Township 8, Range 2, of the Black, Hills Meridian, Fall River County, South Dakota.

Motion made by Allen, seconded by Russell, to approve the November 2022 transfers to reimburse the Highway Department for fuel used or work performed as follows: Sheriff's Department for \$3,219.06; Weed and Pest Office for \$86.02; Building for \$148.99; Emergency Management for \$53.09; and Director of Equalization for \$217.03.

Seiler updated the Board that the majority of the severe winter weather was reported in the Oelrichs area, with 4' drifts; the Board will refer future calls to Seiler directly. Seiler presented a document from Pennington County that he would like to mirror regarding criteria for constructing and accepting roads and approaches onto the county highway system and the county secondary highways.

Break was taken 9:50 a.m. and the meeting reconvened at 9:58 a.m.

Public comment was heard from Mary Helen Peterson about Pegasus withdrawing from Cowboy Exploration regarding uranium and provided documentation for the Commissioners.

John McBride and Dustin Ross, Andersen Engineers, met with the Board. Motion made by Allen, seconded by Russell, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2022-57**

**A Plat of BR Lots 3 and 4 of Liberty Hills Subdivision, located in the SW1/4SE1/4 of Section 27, T7S, R5E, BHM, Fall River County, South Dakota**

WHEREAS, there has been presented to the County Commissioners of Fall River County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now and therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated this 15<sup>th</sup> day of December, 2022.

/s/Joe Falkenburg, Chairman  
Fall River County Board of Commissioners

ATTEST:

/s/Sue Ganje  
Fall River County Auditor

Motion made by Allen, seconded by Russell, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2022-58**

**A Plat of Long Tract and Earl Tract, located in the SW1/4SW1/4 of Section 27, T8S, R6E, BHM, Fall River County, South Dakota**

WHEREAS, there has been presented to the County Commissioners of Fall River County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now and therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated this 15<sup>th</sup> day of December, 2022.

/s/Joe Falkenburg, Chairman  
Fall River County Board of Commissioners

ATTEST:  
/s/Sue Ganje  
Fall River County Auditor

Motion made by Russell, seconded by Allen, to approve the following resolution:

**FALL RIVER COUNTY RESOLUTION #2022-59**

**A Plat of Lot 5 and Lot 17 of Block 3 of Angostura Land Estates, located in the W1/2 of Section 29, T8S, R6E, BHM, Fall River County, South Dakota**

WHEREAS, there has been presented to the County Commissioners of Fall River County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now and therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated this 15<sup>th</sup> day of December, 2022.

/s/Joe Falkenburg, Chairman  
Fall River County Board of Commissioners

ATTEST:



/s/Sue Ganje

Fall River County Auditor

Joe Falkenburg, Commissioner, addressed the Board concerning the TikTok app. Motion made by Cope, seconded by Russell, to approve removing TikTok if installed on employee computers, cell phones, tablets, etc. to follow Governor Noem's action at the state level, due to China's involvement with this app.

Motion made by Russell, seconded by Allen, to approve the changes in the tax levy resolution for the 2023 budget as follows:

General Fund	\$3,227,172.00	3.443
Limited Levy	\$3,235,281.00	3.456
Limited and Unlimited Levy Subtotal	\$3,372,501.00	3.602
Secondary Road	\$307,169.00	0.618
Fire Protection	\$1,211.00	0.149
Total Taxes Levied By County	\$3,680,881.00	4.369

Ganje notified the Board about the start of the 2020 – 2021 legislative audit.

Motion made by Russell, seconded by Cope, to enter into executive session as per SDCL 1-25-2 (1) for personnel purposes and as per SDCL 1-25-2 (4) for negotiations at 10:21 a.m.

The meeting resumed at 11:06 p.m.

Motion made by Russell, seconded by Allen, to approve the Collective Bargaining Agreement between Laborers' Local Union 620 of the Laborers International Union of North America and Fall River County, South Dakota, a public corporation for December 21, 2022 through December 20, 2025, with the new grade scale and a minimum of \$1.50 increase, contingent on approval by the State's Attorney.

Motion made by Russell, seconded by Allen, to adjourn at 11:10 p.m.

/s/Joe Falkenburg

Joe Falkenburg, Chairman

Board of Fall River County Commissioners

ATTEST:

/s/Sue Ganje, Auditor

Fall River County Auditor

**ORDINANCE #2021 – 01**  
**AN ORDINANCE AMENDING ORDINANCE #2021 – 01 AND ALL AMENDMENTS THERETO, IN**  
**ACCORDANCE WITH THE PROVISION OF CHAPTER 11-2, 1967 SDCL, AND AMENDMENTS THEREOF,**  
**AND FOR THE REPEAL OF ALL RESOLUTIONS AND ORDINANCES IN CONFLICT THEREWITH**

BE IT ORDAINED by the Fall River County Commissioners:

**ORDINANCE 2021-01 AMENDED**

**AN ORDINANCE ADDING CHAPTER 14 TO THE REVISED ORDINANCES OF THE FALL RIVER COUNTY**  
**CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS**

**BE IT ORDAINED** by the Board of County Commissioners of Fall River County that Title 1 of the Revised Ordinances of Fall River County is hereby amended by adding new Chapter 14 as follows:

**XX.01: PURPOSE AND INTENT**

The Board of County Commissioners of Fall River County enacts the following licensing ordinances in order to ensure that cannabis establishments within the unincorporated areas of the County operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

**XX.02: DEFINITIONS**

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1.

**Cannabis (or Marijuana):** all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**Cannabis Cultivation Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

**Cannabis Establishment:** cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**Cannabis Product Manufacturing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**Cannabis Products:** any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures

**Cannabis Testing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

**Department:** the South Dakota Department of Health

### **XX.03: LICENSE REQUIRED**

- (a) No cannabis establishment may be located or operate in the unincorporated area of the county without the appropriate valid and current cannabis establishment license issued by the County pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter 14. Each day of the violation constitutes a separate offense.
- (b) No cannabis establishment may be located or operate in the unincorporated area of the county without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in Chapter 14. Each day of the violation constitutes a separate offense.

### **XX.04: LICENSE APPLICATION**

- (a) An application for a cannabis establishment license must be made on a form provided by the County. No other application form will be considered.
- (b) The applicant must submit the following:
  - 1. Application fee of \$10,000.00 ~~\$5,000.00~~. The County will reimburse \$2,500 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.
  - 2. An application that will include, but is not limited to, the following:
    - i. The legal name of the prospective cannabis establishment;
    - ii. The physical address of the prospective cannabis establishment that meets the location requirements in XX.07, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.



- iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
- iv. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction.
- v. Any additional information requested by the County.

#### **XX.05: ISSUANCE OF LICENSE**

(a) The County will issue a license unless:

- 1. The applicant has made a false statement on the application or submits false records or documentation; or
- 2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
- 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction;
- 4. The proposed location does not meet the applicable location requirements found in XX.07 and under SDCL 34-20G;
- 5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
- 6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
- 7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the County or a registration certificate revoked by the state; or
- 8. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the County of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
- 9. The applicant will not be operating the business for which the license would be issued.

(b) In the case of an application for a cannabis dispensary license, the County will reject the application if the limit on the number of cannabis dispensaries has been reached.

(c) In the case of an application for a cannabis cultivation facility license, the County will reject the application if the limit on the number of cannabis dispensaries has been reached.

(d) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.



## **XX.06: COUNTY NEUTRALITY AS TO APPLICANTS**

- (a) Upon request from the Department as to the County's preference of applicants, the County will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the County will abstain from endorsing any application as beneficial to the community.

## **XX.07: LOCATIONS**

### **(a) Cannabis Dispensary**

1. Dispensary shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the dispensary is proposed, to the lot line of the protected uses listed below:
  - i. Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis dispensary establishment application. (34-20G-55)
  - ii. Shall not be located within 1,000 feet from a nonresidential daycare facility
  - iii. Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library
  - iv. Shall not be located within 1,000 feet of a religious institution
  - v. Shall not be located within 1,000 feet of a residence.
  - vi. No future development will cause a dispensary to become nonconforming due to the establishment of a protected use within the distance prescribed herein.
2. Other location standards are as follows:
  - i. No cannabis dispensary shall share premises with or permit access directly from another cannabis establishment, business that sells alcohol or tobacco, or if allowed by law, other cannabis establishment. (44:90:04:14)
  - ii. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.
3. General Provisions and Performance Standards for Dispensaries are shown below:
  - i. No more than 1 cannabis dispensaries shall be allowed to operate in the unincorporated area of the County at any time.
  - ii. No dispensary shall allow access entry to anyone under 21 years of age
  - iii. Access control methods shall be installed pursuant to state requirements
  - iv. Shall be located within a completely enclosed permanent structure. Mobile dispensaries are prohibited.
  - v. Drive-through dispensaries are prohibited.
  - vi. No cannabis dispensary may operate between the hours of 6:01 p.m. and 9:59 a.m. any day of the week, excluding Sundays.
  - vii. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.

- viii. Retail products, storage, sales, and display areas shall be kept out of the public view and shall not be visible from the exterior of the building.
- ix. Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.

(b) Cannabis Cultivation Facility

1. Cannabis Cultivation Facility shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the cultivation facility is proposed, to the lot line of the protected uses listed below:
  - i. No more than 1 cannabis cultivation facilities shall be allowed to operate in the unincorporated area of the County at any time.
  - ii. Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis cultivation establishment application. (34-20G-55)
  - iii. Shall not be located within 1,000 feet from a nonresidential daycare facility
  - iv. Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library
  - v. Shall not be located within 1,000 feet of a religious institution
  - vi. Shall not be located within 1,000 feet of a residence.
  - vii. No future development will cause a cultivation facility to become nonconforming due to the establishment of a protected use within the distance prescribed herein.

2. General Provisions and Performance Standards for Cannabis Cultivation Facilities

- i. All cultivation operations shall be within a completely enclosed permanent building.
- ii. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.
- iii. Shall provide for a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota. All cultivation operations shall be within a completely enclosed permanent building or secured greenhouse facility.
- iv. Security measures shall be installed as required by state regulations.
- v. Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates.
- vi. Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.

(c) Cannabis Testing Facility: Fall River County will not license and prohibits the establishment of Cannabis Testing Facilities within the unincorporated areas of the County.

- ~~1. Cannabis Testing Facility shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the testing facility is proposed, to the lot line of the protected uses listed below:~~
  - ~~i. Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis testing establishment application. (34-20G-55).~~

- ~~ii. Shall not be located within 1,000 feet from a nonresidential daycare facility.~~
- ~~iii. Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library.~~
- ~~iv. Shall not be located within 1,000 feet of a religious institution.~~
- ~~v. Shall not be located within 1,000 feet of a residence.~~
- ~~vi. No future development will cause a testing facility to become nonconforming due to the establishment of a protected use within the distance prescribed herein.~~

## ~~2. General Provisions and Performance Standards for Cannabis Testing Facilities~~

- ~~i. All testing operations shall be within a completely enclosed permanent building.~~
- ~~ii. Shall provide for proper disposal of cannabis remnants and/or by products and shall not place waste items in exterior refuse containers.~~
- ~~iii. Shall provide for a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota. All cultivation operations shall be within a completely enclosed permanent building or secured greenhouse facility.~~
- ~~iv. Security measures shall be installed as required by state regulations.~~
- ~~v. Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates.~~
- ~~vi. Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.~~

### (d) Cannabis Product Manufacturing Facility: Fall River County will not license and prohibits the establishment of Cannabis Product Manufacturing Facilities within the unincorporated areas of the County.

- ~~1. Cannabis Product Manufacturing Facility shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the manufacturing facility is proposed, to the lot line of the protected uses listed below:~~

- ~~i. Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis testing establishment application. (34-20G-55).~~
- ~~ii. Shall not be located within 1,000 feet from a nonresidential daycare facility.~~
- ~~iii. Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library.~~
- ~~iv. Shall not be located within 1,000 feet of a religious institution.~~
- ~~v. Shall not be located within 1,000 feet of a residence.~~
- ~~vi. No future development will cause a manufacturing facility to become nonconforming due to the establishment of a protected use within the distance prescribed herein.~~

## ~~2. General Provisions and Performance Standards for Cannabis Testing Facilities~~

- ~~i. All manufacturing operations shall be within a completely enclosed permanent building.~~
- ~~ii. Shall provide for proper disposal of cannabis remnants and/or by products and shall not place waste items in exterior refuse containers.~~



- ~~iii. Shall provide for a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota. All cultivation operations shall be within a completely enclosed permanent building or secured greenhouse facility.~~
- ~~iv. Security measures shall be installed as required by state regulations.~~
- ~~v. Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates.~~
- ~~vi. Extraction processes utilizing flammable liquefied gas shall not be located in any building containing Group A, E, I, or R occupancies as defined by the International Building Code.~~
- ~~vii. Exit doors from extraction rooms shall swing in the direction of egress and be self-closing. Panic hardware shall be provided on door and where latching door hardware is provided panic hardware shall also be provided.~~
- ~~viii. Extraction rooms, booths, or hoods, including ductwork where required for hazardous exhaust systems shall be protected by an approved automatic fire extinguishing system.~~
- ~~ix. Signage and advertising shall be limited to on-premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.~~

#### **XX.08: BUILDING CODE**

All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

#### **XX.09: EXPIRATION OF LICENSE AND RENEWAL**

- (a) Each license expires one year from the date of issuance and may be renewed only by making application as provided in Section XX.04. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.
- (b) The renewal fee is ~~\$10,000.00~~ ~~\$5,000.00~~. The County will reimburse \$2,500 for applicants who fail to obtain a renewal of their registration certificate from the Department.
- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the County may order closure of the cannabis establishment.
- (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

#### **XX.10: SUSPENSION**

- (a) A license may be suspended if the license holder or an employee or agent of the license holder:
  - 1. Violates or is otherwise not in compliance with any section of this article.
  - 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.



3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
- (b) A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
- (c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

#### **XX.11: REVOCATION**

- (a) A license may be revoked if the license is suspended under Section XX.11 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section XX.11 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.
- (c) A license is subject to revocation if a license holder or employee of a license holder:
  1. Gave false or misleading information in the material submitted during the application process;
  2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
  3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
  4. Repeated violations of Section XX.12;
  5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);
  6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;
  7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or
  8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.
  9. The license holder allows a public nuisance to continue after notice from the County.

#### **XX.12. SUSPENSION AND REVOCATION PROCESS**

- (a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing

the license holder of the violation and the County's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.

- (b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the County Commission Chairperson, Auditor, Sheriff, and vice-chair.
- (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- (e) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

#### **XX.13: APPEAL**

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the Board of County Commissioners by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to Fall River County Courthouse, 906 N River St., South Dakota, 57747. The appeal will be considered by the Board of County Commissioners at a regularly scheduled meeting within one month of the receipt of the appeal.

#### **XX.14: LICENSES NOT TRANSFERRABLE**

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

#### **XX.15: LIABILITY FOR VIOLATIONS**

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

#### **XX.16: PENALTIES**

Any person who operates or causes to be operated a cannabis establishment without a valid license or in

violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

**Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

Passed and adopted this \_\_\_\_ day of January, 2023.

\_\_\_\_\_  
Joe Falkenburg, Chairman  
Fall River County Commissioners

ATTEST:

\_\_\_\_\_  
Sue Ganje, Auditor  
Fall River County

This ordinance shall become effective twenty days after publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum is timely involved prior thereto.

1<sup>st</sup> Reading:

2<sup>nd</sup> Reading:

Adopted:

Published:

Effective:



**ORDINANCE #2021 – 01**  
**AN ORDINANCE AMENDING ORDINANCE #2021 – 01 AND ALL AMENDMENTS THERETO, IN**  
**ACCORDANCE WITH THE PROVISION OF CHAPTER 11-2, 1967 SDCL, AND AMENDMENTS THEREOF,**  
**AND FOR THE REPEAL OF ALL RESOLUTIONS AND ORDINANCES IN CONFLICT THEREWITH**

BE IT ORDAINED by the Fall River County Commissioners:

**ORDINANCE 2021-01 AMENDED**

**AN ORDINANCE ADDING CHAPTER 14 TO THE REVISED ORDINANCES OF THE FALL RIVER COUNTY**  
**CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS**

**BE IT ORDAINED** by the Board of County Commissioners of Fall River County that Title 1 of the Revised Ordinances of Fall River County is hereby amended by adding new Chapter 14 as follows:

**XX.01: PURPOSE AND INTENT**

The Board of County Commissioners of Fall River County enacts the following licensing ordinances in order to ensure that cannabis establishments within the unincorporated areas of the County operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

**XX.02: DEFINITIONS**

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1.

**Cannabis (or Marijuana):** all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

**Cannabis Cultivation Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.



**Cannabis Establishment:** cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**Cannabis Product Manufacturing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**Cannabis Products:** any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures

**Cannabis Testing Facility:** in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

**Department:** the South Dakota Department of Health

#### **XX.03: LICENSE REQUIRED**

- (a) No cannabis establishment may be located or operate in the unincorporated area of the county without the appropriate valid and current cannabis establishment license issued by the County pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter 14. Each day of the violation constitutes a separate offense.
- (b) No cannabis establishment may be located or operate in the unincorporated area of the county without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in Chapter 14. Each day of the violation constitutes a separate offense.

#### **XX.04: LICENSE APPLICATION**

- (a) An application for a cannabis establishment license must be made on a form provided by the County. No other application form will be considered.
- (b) The applicant must submit the following:
  - 1. Application fee of \$10,000.00 ~~\$5,000.00~~. The County will reimburse \$2,500 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health.
  - 2. An application that will include, but is not limited to, the following:
    - i. The legal name of the prospective cannabis establishment;
    - ii. The physical address of the prospective cannabis establishment that meets the location requirements in XX.07, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.

- iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
- iv. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction.
- v. Any additional information requested by the County.

#### **XX.05: ISSUANCE OF LICENSE**

(a) The County will issue a license unless:

- 1. The applicant has made a false statement on the application or submits false records or documentation; or
- 2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
- 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction;
- 4. The proposed location does not meet the applicable location requirements found in XX.07 and under SDCL 34-20G;
- 5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
- 6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
- 7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the County or a registration certificate revoked by the state; or
- 8. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the County of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
- 9. The applicant will not be operating the business for which the license would be issued.

(b) In the case of an application for a cannabis dispensary license, the County will reject the application if the limit on the number of cannabis dispensaries has been reached.

(c) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

#### **XX.06: COUNTY NEUTRALITY AS TO APPLICANTS**

- (a) Upon request from the Department as to the County's preference of applicants, the County will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the County will abstain from endorsing any application as beneficial to the community.

#### **XX.07: LOCATIONS**

(a) Cannabis Dispensary

1. Dispensary shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the dispensary is proposed, to the lot line of the protected uses listed below:
  - i. Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis dispensary establishment application. (34-20G-55)
  - ii. Shall not be located within 1,000 feet from a nonresidential daycare facility
  - iii. Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library
  - iv. Shall not be located within 1,000 feet of a religious institution
  - v. Shall not be located within 1,000 feet of a residence.
  - vi. No future development will cause a dispensary to become nonconforming due to the establishment of a protected use within the distance prescribed herein.
2. Other location standards are as follows:
  - i. No cannabis dispensary shall share premises with or permit access directly from another cannabis establishment, business that sells alcohol or tobacco, or if allowed by law, other cannabis establishment. (44:90:04:14)
  - ii. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.
3. General Provisions and Performance Standards for Dispensaries are shown below:
  - i. No more than 1 cannabis dispensaries shall be allowed to operate in the unincorporated area of the County at any time.
  - ii. No dispensary shall allow access entry to anyone under 21 years of age
  - iii. Access control methods shall be installed pursuant to state requirements
  - iv. Shall be located within a completely enclosed permanent structure. Mobile dispensaries are prohibited.
  - v. Drive-through dispensaries are prohibited.
  - vi. No cannabis dispensary may operate between the hours of 6:01 p.m. and 9:59 a.m. any day of the week, excluding Sundays.
  - vii. Shall provide for proper disposal of cannabis remnants and/or by-products and shall not place waste items in exterior refuse containers.
  - viii. Retail products, storage, sales, and display areas shall be kept out of the public view and shall not be visible from the exterior of the building.
  - ix. Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.

- (b) Cannabis Cultivation Facility: Fall River County will not license and prohibits the establishment of



Cannabis Cultivation Facilities within the unincorporated areas of the County.

1. ~~Cannabis Cultivation Facility shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the cultivation facility is proposed, to the lot line of the protected uses listed below:~~
  - i. ~~Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis cultivation establishment application. (34-20G-55)~~
  - ii. ~~Shall not be located within 1,000 feet from a nonresidential daycare facility~~
  - iii. ~~Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library~~
  - iv. ~~Shall not be located within 1,000 feet of a religious institution~~
  - v. ~~Shall not be located within 1,000 feet of a residence.~~
  - vi. ~~No future development will cause a cultivation facility to become nonconforming due to the establishment of a protected use within the distance prescribed herein.~~

2. General Provisions and Performance Standards for Cannabis Cultivation Facilities

- i. ~~All cultivation operations shall be within a completely enclosed permanent building.~~
- ii. ~~Shall provide for proper disposal of cannabis remnants and/or by products and shall not place waste items in exterior refuse containers.~~
- iii. ~~Shall provide for a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota. All cultivation operations shall be within a completely enclosed permanent building or secured greenhouse facility.~~
- iv. ~~Security measures shall be installed as required by state regulations.~~
- v. ~~Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates.~~
- vi. ~~Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.~~

(c) Cannabis Testing Facility: Fall River County will not license and prohibits the establishment of Cannabis Testing Facilities within the unincorporated areas of the County.

1. ~~Cannabis Testing Facility shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the testing facility is proposed, to the lot line of the protected uses listed below:~~
  - i. ~~Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis testing establishment application. (34-20G-55).~~
  - ii. ~~Shall not be located within 1,000 feet from a nonresidential daycare facility.~~
  - iii. ~~Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library.~~
  - iv. ~~Shall not be located within 1,000 feet of a religious institution.~~
  - v. ~~Shall not be located within 1,000 feet of a residence.~~
  - vi. ~~No future development will cause a testing facility to become nonconforming due to the establishment of a protected use within the distance prescribed herein.~~

## 2. General Provisions and Performance Standards for Cannabis Testing Facilities

- i. ~~All testing operations shall be within a completely enclosed permanent building.~~
- ii. ~~Shall provide for proper disposal of cannabis remnants and/or by products and shall not place waste items in exterior refuse containers.~~
- iii. ~~Shall provide for a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota. All cultivation operations shall be within a completely enclosed permanent building or secured greenhouse facility.~~
- iv. ~~Security measures shall be installed as required by state regulations.~~
- v. ~~Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates.~~
- vi. ~~Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.~~

(d) Cannabis Product Manufacturing Facility: Fall River County will not license and prohibits the establishment of Cannabis Product Manufacturing Facilities within the unincorporated areas of the County.

- 1. ~~Cannabis Product Manufacturing Facility shall not be located within a prescribed distance from certain existing uses as measured from the lot line of the property where the manufacturing facility is proposed, to the lot line of the protected uses listed below:~~
  - i. ~~Shall not be located within 1,000 feet of a public or private school existing before the date of the cannabis testing establishment application. (34-20G-55).~~
  - ii. ~~Shall not be located within 1,000 feet from a nonresidential daycare facility.~~
  - iii. ~~Shall not be located within 1,000 feet from a public park, public pool or public recreational facility or library.~~
  - iv. ~~Shall not be located within 1,000 feet of a religious institution.~~
  - v. ~~Shall not be located within 1,000 feet of a residence.~~
  - vi. ~~No future development will cause a manufacturing facility to become nonconforming due to the establishment of a protected use within the distance prescribed herein.~~

## 2. General Provisions and Performance Standards for Cannabis Testing Facilities

- i. ~~All manufacturing operations shall be within a completely enclosed permanent building.~~
- ii. ~~Shall provide for proper disposal of cannabis remnants and/or by products and shall not place waste items in exterior refuse containers.~~
- iii. ~~Shall provide for a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the property line. Ventilation and filtration systems shall meet the standards set forth by the State of South Dakota. All cultivation operations shall be within a completely enclosed permanent building or secured greenhouse facility.~~
- iv. ~~Security measures shall be installed as required by state regulations.~~
- v. ~~Perimeter of the property shall be fenced with minimum of a six (6) foot high solid fence and security access gates.~~



- ~~vi. Extraction processes utilizing flammable liquefied gas shall not be located in any building containing Group A, E, I, or R occupancies as defined by the International Building Code.~~
- ~~vii. Exit doors from extraction rooms shall swing in the direction of egress and be self-closing. Panic hardware shall be provided on door and where latching door hardware is provided panic hardware shall also be provided.~~
- ~~viii. Extraction rooms, booths, or hoods, including ductwork where required for hazardous exhaust systems shall be protected by an approved automatic fire extinguishing system.~~
- ~~ix. Signage and advertising shall be limited to on premise signage only, no billboard advertising, pole signage is prohibited, and signage is limited to text only with no graphic displays or video.~~

#### **XX.08: BUILDING CODE**

All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

#### **XX.09: EXPIRATION OF LICENSE AND RENEWAL**

- (a) Each license expires one year from the date of issuance and may be renewed only by making application as provided in Section XX.04. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.
- (b) The renewal fee is ~~\$10,000.00~~ \$5,000.00. The County will reimburse \$2,500 for applicants who fail to obtain a renewal of their registration certificate from the Department.
- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the County may order closure of the cannabis establishment.
- (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

#### **XX.10: SUSPENSION**

- (a) A license may be suspended if the license holder or an employee or agent of the license holder:
  - 1. Violates or is otherwise not in compliance with any section of this article.
  - 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.
  - 3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
- (b) A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
- (c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.



#### **XX.11: REVOCATION**

- (a) A license may be revoked if the license is suspended under Section XX.11 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section XX.11 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months.
- (c) A license is subject to revocation if a license holder or employee of a license holder:
  - 1. Gave false or misleading information in the material submitted during the application process;
  - 2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
  - 3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
  - 4. Repeated violations of Section XX.12;
  - 5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license);
  - 6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;
  - 7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or
  - 8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.
  - 9. The license holder allows a public nuisance to continue after notice from the County.

#### **XX.12. SUSPENSION AND REVOCATION PROCESS**

- (a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the County's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.
- (b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the County Commission

Chairperson, Auditor, Sheriff, and vice-chair.

- (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- (e) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

#### **XX.13: APPEAL**

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the Board of County Commissioners by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to Fall River County Courthouse, 906 N River St., South Dakota, 57747. The appeal will be considered by the Board of County Commissioners at a regularly scheduled meeting within one month of the receipt of the appeal.

#### **XX.14: LICENSES NOT TRANSFERRABLE**

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

#### **XX.15: LIABILITY FOR VIOLATIONS**

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

#### **XX.16: PENALTIES**

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

**Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or

application.

Passed and adopted this \_\_\_\_ day of January, 2023.

\_\_\_\_\_  
Joe Falkenburg, Chairman  
Fall River County Commissioners

ATTEST:

\_\_\_\_\_  
Sue Ganje, Auditor  
Fall River County

This ordinance shall become effective twenty days after publication of this notice in the official newspaper, thereby repealing all ordinances or parts thereof in conflict herewith unless a referendum in timely involved prior thereto.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
Adopted:  
Published:  
Effective:





427 SOUTH CHAPELLE  
C/O 500 EAST CAPITOL  
PIERRE, SD 57501-5070  
(605) 773-3595

RUSSELL A. OLSON  
AUDITOR GENERAL

December 29, 2022

Joe Falkenburg, Governing Board Chairperson

And

Sue Ganje, County Auditor

Fall River County  
906 N. River Street  
Hot Springs, South Dakota 57747

This will confirm our understanding of the services we are to provide Fall River County (County) as of December 31, 2021 and for each of) the years in the biennial period then ended. We will perform a financial and compliance audit of the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the County as of December 31, 2021 and for each of the years in the biennial period then ended and the related notes to the financial statements, which collectively comprise the County's basic financial statements. We understand that the basic financial statements of the County will be presented in accordance with the Special Purpose Framework – Modified Cash Basis of Accounting. Our audit will be conducted with the objective of expressing an opinion on each opinion unit applicable to those financial statements. In addition, we will audit the County's compliance over major federal award programs as of December 31, 2021 and for each of the years in the biennial period then ended.

The financial statements of the Fall River Housing and Redevelopment Commission, a component unit of the County, will be audited by other auditors. The county has elected to not include the component unit's financial information with the financial statements of the County. Additionally, the County does not intend to issue audited financial statements of the reporting entity that include all component units. Our report thereon will be an adverse opinion on the aggregate discretely presented component unit opinion unit.

We have also been engaged to report on supplementary information other than RSI that accompanies the County's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- Budgetary Comparison Schedules
- Schedule of Expenditure of Federal Awards

- Schedule of the County's Proportionate Share of the Net Pension Liability (Asset)

### **Audit Objectives**

The objective of our audit is the expression of our opinions as to whether the County's basic financial statements are fairly presented, in all material respects, in conformity with Special Purpose Framework - Modified Cash Basis of Accounting and to report on the fairness of the additional information referred to in the first section above when considered in relation to the basic financial statements taken as a whole.

We will also subject the schedule of expenditure of federal awards to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the schedule to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on whether the schedule of expenditures of federal award is presented fairly in all material respects in relation to the financial statements as a whole.

The objective also includes reporting on:

- Internal controls related to the financial statements and compliance with laws, regulations, contracts and grant agreements, and other matters, noncompliance with which could have a material effect on the financial statements, as required by *Government Auditing Standards*.
- Internal controls related to the major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 (Single Audit Act) and *Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance)

The reports on internal control and compliance will each include a paragraph that states that the purpose of the report is solely to describe (a) the scope of testing of internal control over financial reporting and compliance and the result of that testing and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance, (b) the scope of testing internal control over compliance for major programs and major program compliance and the result of that testing and to provide an opinion on compliance but not to provide an opinion on the effectiveness of internal control over compliance, and (c) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering internal control over financial reporting and compliance and the *Uniform Guidance* in considering internal control over compliance and major program compliance. The reports are intended for the information and use of the audit committee, management, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties. However, because these reports are required by South Dakota Codified Law 4-11-11 and the *Uniform Guidance*, they are a matter of public record and their distribution is not limited.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act and the *Uniform Guidance*. Our audit will include tests of accounting records, a determination of major program(s) in accordance with the *Uniform Guidance*, and other procedures we consider necessary to enable us to express such our opinions and to render the required reports.



If during the course of our audit we find that we are unable to express unmodified opinions on the fairness of the financial statements for any opinion unit or on compliance with the requirements for each major federal award as required by the Single Audit Act and the *Uniform Guidance*, we will notify you of the problems encountered. If, for any reason, we are unable to complete the audit, we will not issue a report as a result of this engagement, but we will bill you at our standard hourly rates for the value of services rendered to date of termination of the engagement.

### **Management Responsibilities**

Management is responsible for the preparation and fair representation of basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of the *Uniform Guidance*. As part of the audit, we will provide guidance with preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. If applicable, you will be required to acknowledge in the written representation letter our assistance with preparation of the financial statements and schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we may provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

The County has requested that we provide assistance as a nonaudit service in the compiling of the notes to the financial statements and the schedule of federal awards. These nonaudit services do not constitute an audit in accordance with Government Auditing Standards as we are simply performing the nonaudit service of compiling the information from your records. You are responsible for making all management decisions and performing all management functions relating to the notes to the financial statements and the schedule of federal awards and for accepting full responsibility for such decisions. You will be required to acknowledge in the written representation letter our assistance with the compiling of the notes to the financial statements and the schedule of federal awards and that you have reviewed and approved the notes to the financial statements prior to their issuance and have accepted responsibility for them. The County has designated the County Auditor as the individual with suitable skills, knowledge and experience to oversee this nonaudit service.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. You are also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information (as applicable) of the County and the respective changes in financial position and, where applicable, cash flows in conformity with Special Purpose Framework - Modified Cash Basis of Accounting; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management is reliable and financial information is reliable and properly recorded. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information



that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by the *Uniform Guidance*, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

You are responsible for preparation of the schedule of expenditures of federal awards in conformity with the *Uniform Guidance*. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon **OR** make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (a) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the *Uniform Guidance*; (b) that you believe the schedule of expenditures of federal awards, including its form and content, is fairly presented in accordance with the *Uniform Guidance*; (c) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (d) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with Special Purpose Framework - Modified Cash Basis of Accounting. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon **OR** make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (a) you are responsible for presentation of the supplementary information in accordance with Special Purpose Framework - Modified Cash Basis of Accounting; (b) that you believe the supplementary information, including its form and content, is fairly presented in accordance with Special Purpose Framework - Modified Cash Basis of Accounting; (c) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (d) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.



Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

Management will coordinate with our office to ensure that the Department of Legislative Audit's (DLA) independence is not impaired by hiring former or current DLA manager or professional employees in a key position, as defined in the AICPA *Code of Professional Conduct*, which would cause a violation of the AICPA *Code of Professional Conduct* or other applicable independence rules. Any employment opportunities with the County for a former or current DLA manager or professional employee should be discussed with the Auditor General or Local Government Audit Manager before entering into substantive employment conversations with the former or current DLA manager or professional employee.

### **Audit Procedures - General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Accordingly, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse. As required by the Single Audit Act and the *Uniform Guidance*, our audit plan and test transactions related to major federal award programs for compliance with applicable laws and regulations and the provisions of contracts and grant agreements. Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management and the appropriate law enforcement officials of any violations of laws or regulations and any fraud or illegal acts that come to our attention, unless clearly inconsequential. We will include such matters in the reports required by *Government Auditing Standards* and the *Uniform Guidance*. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. Our responsibility as auditors are limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the



conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

### **Audit Procedures – Internal Controls**

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the *Uniform Guidance*, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of internal controls that we consider relevant to preventing and/or detecting material noncompliance with compliance requirements applicable to each of County's major federal award programs. Our tests will be less in scope than would be necessary to render an opinion on internal controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the *Uniform Guidance*.

An audit is not designed to provide assurance on the effectiveness of internal control or to identify all significant deficiencies or material weaknesses. However, we will communicate to you of any matters involving internal control and its operation that we consider to be material weaknesses or significant deficiencies under standards established by the American Institute of Certified Public Accountants. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We will also inform you of any other matters involving internal controls, if any, as required by *Government Auditing Standards* and the *Uniform Guidance*.

### **Audit Procedures - Compliance**

Compliance with laws, regulations, contracts, agreements and other matters applicable to the County is the responsibility of management. As part of obtaining reasonable, but not absolute, assurance about whether the financial statements are free of material misstatement, we will perform tests of County's compliance with certain provisions of applicable laws, regulations, contracts, agreements and other matters. However, the objective of those procedures will not be to provide an opinion on overall compliance with such provisions, and we will not express such an opinion in our report issued pursuant to *Government Auditing Standards*.

*Uniform Guidance* requires our audit include tests of transactions related to major federal award programs for compliance with applicable laws and regulations and the provisions of contracts and grant agreements. Further, the *Uniform Guidance* requires that we plan and perform our audit to provide us with enough evidence to support our opinion on whether the County has complied with certain provisions of laws, regulations, contracts, and grants related to each major federal award programs. Our procedures will consist of determining major federal programs and performing the applicable procedures described in the *Uniform Guidance Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the major federal programs. The purpose of our audit will be to express an opinion on the County's compliance with the requirements applicable to each of its major federal award programs in our report on compliance issued pursuant to



the *Uniform Guidance*.

### **Audit Administration, Fees, and Other**

Our fee for these services will be based on the time actually spent at our standard hourly rate is determined in accordance with state statute (Fiscal Year 2023 rate is \$78.00) and is subject to change each July 1<sup>st</sup>. We will not bill you for travel time spent coming to and from your location or for time spent giving assistance or working on other projects while on site at your location.

*Government Auditing Standards* state that if the Auditor's Report discloses deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or agreements, or abuse, the entity should provide the views of the responsible officials concerning the findings, conclusions, and recommendation, as well as planned response. Such response will be included in the audit report. If the County does not respond or chooses not to respond we are required to state this in the audit report.

In addition, the *Uniform Guidance* requires the County prepare a corrective action plan for each item of finding and questioned cost related to federal award programs that are disclosed as a result of our audit. The County's corrective action plan is required to be included in the final report package.

*Uniform Guidance* requires you to file one electronic version of the audit report with the Federal Single Audit Clearinghouse, and to complete your portion of the electronic version of the Data Collection Form (Form SF-SAC). We will assist you in filing the electronic version of the Form SF-SAC with Federal Single Audit Clearinghouse. In addition, report filings with state agencies in Pierre, South Dakota, will be made by us. We will provide you with a sufficient number of copies of the final audit report to fulfill your requirements. The Data Collection Form is required to be submitted within the earlier of 30 days of the report release date or nine months following the close of the most recent fiscal year being audited.

The audit documentation will be available at the completion of our audit for inspection at our Pierre office by other auditors as well as management of the County during normal working hours. The audit documentation will be retained for a minimum of five years following the date of the audit report.

We understand that your employees will assist us whenever possible and will perform such functions as pulling documents selected by us for testing. If your employees cannot accomplish these tasks when requested, we will perform them and bill for our services at the above hourly rate.

Should unforeseen circumstances arise that would require a significant extension of our auditing procedures, we would discuss with you the specific matters involved before extending our audit scope and incurring additional costs. In such a case, this letter may need to be modified and reissued.

The audit report should be issued in final form, and all required report filings accomplished, estimated to be no later than sixty (60) calendar days from the date of the audit report. Our Local Government Audit Manager is the engagement partner and is responsible for supervising the engagement.

*Government Auditing Standards* require that our office undergo an external quality control review on a periodic basis. A copy of our latest external quality control review letter will be provided to you upon request and is also publicly available on our website (<http://legislativeaudit.sd.gov>).

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions please let us know.

If this letter correctly expresses your understanding, please sign both copies where indicated and return one copy to us.

Sincerely,

*Allen L Schaefer*

Auditor In Charge

Approved:

\_\_\_\_\_  
Governing Board Chairperson

\_\_\_\_\_  
Date

\_\_\_\_\_  
County Auditor

\_\_\_\_\_  
Date

Dec 20 2022 8:17am FR CO HWY

6057455912

1

20<sup>0</sup>/16

FAXED BID: 605-662-5757

TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137

DATE: 12/7/2022

FROM: PJ'S

PHONE: 605-662-5000

BID FOR: PROPANE/HS Shop - 1000g @ 90%

AMOUNT OF BID: 2.39 per gallon  
(This bid includes all appropriate taxes and fees)Signed By: William Turner

Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.

If declining to bid please write the words, "Decline today's bid." On the line designated for the Bid Amount.

Thank You



Dec 20 2022 8:09am FR CO HWY

6057455912

1

**FAXED BID: 605-745-4188**

**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137**

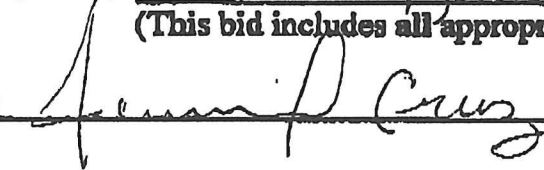
**DATE: 12/20/2022**

**FROM: NELSON'S OIL & GAS PHONE: 605-745-4189**

**BID FOR: PROPANE / HS-SHDP - 1000g @ 90%**

**AMOUNT OF BID:** \$ 2.57 / gallon = \$ 2570.00  
(This bid includes all appropriate taxes and fees)

**Signed By:**



**Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; "Decline today's bid." On the line designated for the Bid Amount.**

**Thank You**

**FAXED BID:** 745-7768

**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912**  
**PHONE # 745-5137**

**DATE:** 12/20/2022

**FROM: DAKOTA PROPANE**

**PHONE:** 605-745-5959

**BID FOR:** PROPANE / HS-SHOP - Approx 1,000 Gal

**AMOUNT OF BID:** Decline  
(This bid includes all appropriate taxes and fees)

**Signed By:** Per Phone

**Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; "Decline todays bid." On the line designated for the Bid Amount.**

**Thank You**

Dec 20 2022 8:17am FR CO HWY

8057466912

2

20%

FAXED BID: 605-662-5757

TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137

DATE: 12/20/2022

FROM: PJ'S

PHONE: 605-662-5880

BID FOR: PROPANE - Edgemont - 500g @ 89¢

AMOUNT OF BID: 2.39 per gallon  
(This bid includes all appropriate taxes and fees)Signed By: 2.39 per gal. *William Turner*

Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.

If declining to bid please write the words; "Decline today's bid." On the line designated for the Bid Amount.

Thank You



Dec 20 2022 8:09am FR CO HWY

6057455912

2

**FAXED BID: 605-745-4188**

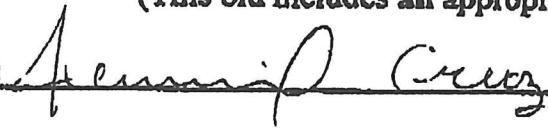
**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137**

**DATE: 12/20/2022**

**FROM: NELSON'S OIL & GAS PHONE: 605-745-4189**

**BID FOR: PROPANE - Edgmont / 500g @ 8%**

**AMOUNT OF BID:** \$2.57 / gallon = \$1285.00  
(This bid includes all appropriate taxes and fees)

**Signed By:** 

**Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; "Decline today's bid." On the line designated for the Bid Amount.**

**Thank You**

**FAXED BID: 745-7768**

**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137**

**DATE: 12/20/2022**

**FROM: DAKOTA PROPANE**

**PHONE: 605-745-5959**

**BID FOR: PROPANE - Edgemont - Approx. 500G**

**AMOUNT OF BID: Decline**  
(This bid includes all appropriate taxes and fees)

**Signed By: Per Phone**

**Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; "Decline today's bid." On the line designated for the Bid Amount.**

**Thank You**

**FAXED BID: 6057454188**

**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137**

**DATE: 12/12/2022**

**FROM: NELSONS OIL & GAS PHONE:605-745-4189**

**BID FOR: Approx. 8,000 Gallons DSL#1 & #2 -WINTER BLEND 50/50**

**AMOUNT OF BID:** \$3.69 / gallon  
(This bid includes all appropriate taxes and fees)

**Signed By:** 

**Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; "Decline todays bid." On the line designated for the Bid Amount.**

**Thank You**

No promise on when can deliver  
because of pending severe winter  
storm. Price subject to increase  
or decrease based on actual deliver  
date / cost.





**FAXED BID:**

**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912  
PHONE # 745-5137**

**DATE: 12/12/2022**

**FROM: PJ'S HIDEAWAY PHONE: 605-662-5000**

**BID FOR: \_Approx 8,000 Gallons DSL#1 & #2 – Winter Blend 50/50**

**AMOUNT OF BID: NO Bid**  
(This bid includes all appropriate taxes and fees)

**Signed By: **

**Note: all faxed bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; “ Decline todays bid.” On the line designated for the Bid Amount.**

**Thank You**

**FAX:**                      **PHONE: 6053435984**  
**EMAIL:MKulish@mgoil.com**


**TO: FALL RIVER COUNTY HIGHWAY DEPT. FAX # 745-5912**  
**PHONE # 745-5137**

**DATE: 12/12/2022**

**FROM: MG OIL**

**BID FOR: Approx. 8,000 Gallons DSL#1 &#2 – Winter Blend 50/50**

**AMOUNT OF BID:** Decline to Bid - per email  
(This bid includes all appropriate taxes and fees)

**Signed By:** 

**Note: all bids must be received in the Fall River County Highway Dept. office at the above number before 10:00 A.M. to be considered, unless otherwise stated by the caller for bids.**

**If declining to bid please write the words; “ Decline todays bid.” On the line designated for the Bid Amount.**

**Thank You**

## APPLICATION FOR PERMIT TO OCCUPY COUNTY HIGHWAY RIGHT-OF-WAY

TO: THE BOARD OF COUNTY COMMISSIONERS

DATE: 12/13/2022

FALL RIVER COUNTY,  
HOT SPRINGS, SOUTH DAKOTA

GW PROJECT NUMBER: 23866 - T22481

Application is hereby made by Golden West Telecommunications, South Dakota for permit to occupy highway right-of-way located from: Approximately 4500' south of the intersection of E Ardmore Rd & Black Banks Rd.

To: the east side of Black Banks Rd. south of the driveway to 30088 Black Banks Rd.

AERIAL FACILITIES: Location, type and size of the proposed line and anchors with respect to the centerline of the road or outer edge of the right-of-way and location of crossings showing any right-of-way are shown on Exhibit "A" (Sketch) attached.

UNDERGROUND FACILITIES: A sketch showing the approximate route and location of the proposed facility for which a permit is hereby requested is attached as Exhibit "A" and made a part hereof.

The following information is pertinent to the proposed installation:

1. Intended usage or rating: to provide service to the residence at 30088 Black Banks Rd
2. Pipe size, cable size and type: Cable: BFO 6; Duct: Sch 40 PVC
3. Outside diameter: Cable: 0.43" O.D.; Duct: 1.660" O.D.
4. Maximum pressure at which pipeline will be operated: N/A
5. Size and Type of metal casing: N/A
6. Minimum depth of cable or pipeline: 36"
7. Casing will be installed by minimum size boring and will extend from toe of in-slope to toe of in-slope.
8. This installation will comply with the most recently adopted ASA, Code for Gas Transmission and Distribution Pipe systems or the National Safety Code. Marker sign(s) will be installed where appropriate.

The installation and maintenance of said utility facilities will not interfere with or impair construction, maintenance or use of any highway and will comply with all safety regulations of the State and Federal Government. When trenching is done on County R.O.W. the trenches must be tamped to avoid any settlement.

Future adjustments and maintenance will be in accordance with State and Federal Laws and Regulations and will be performed at not cost to the County or the Federal Government.

APPROVED \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
County Chairman

\_\_\_\_\_  
County Auditor

SUBMITTED 13-Dec 20 22

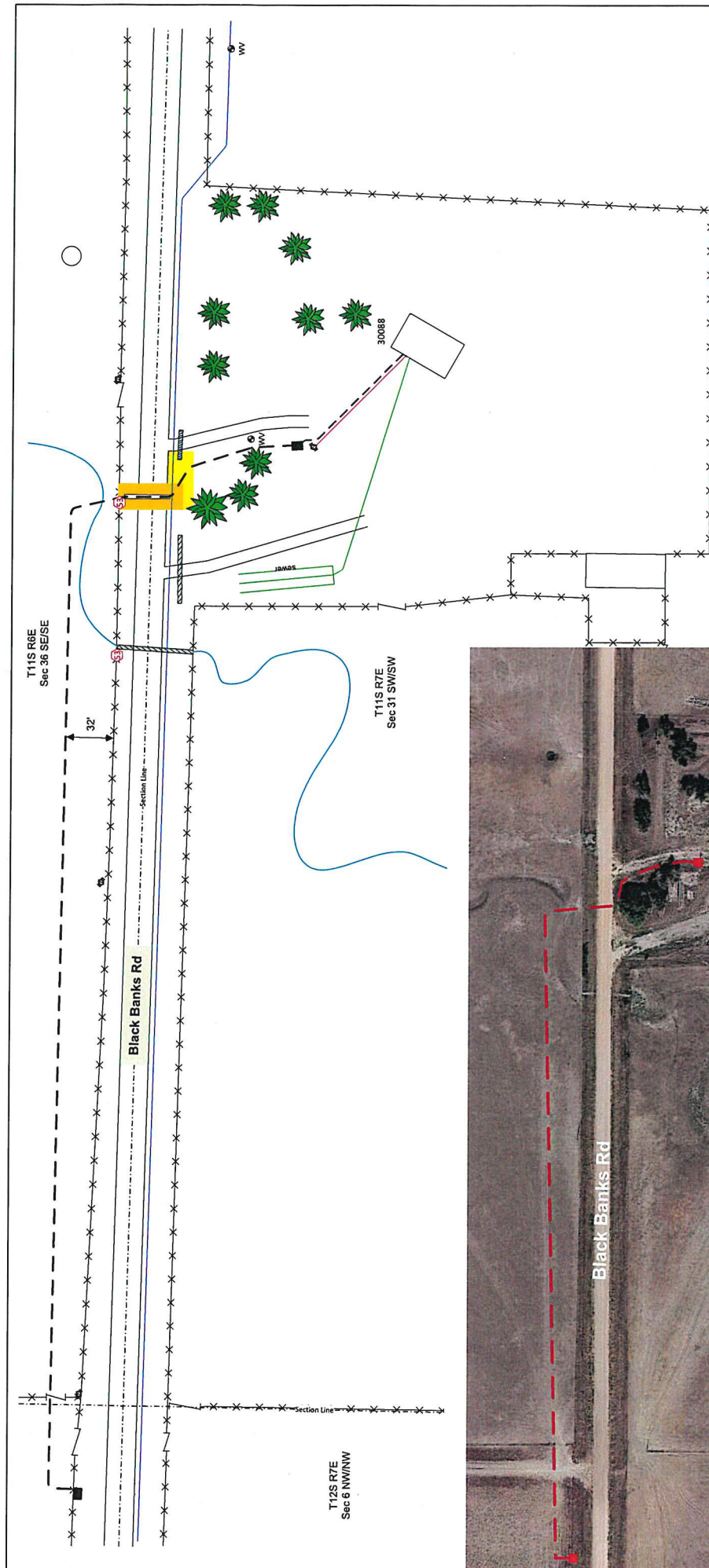
Golden West Telecommunications

By Mickie Abell Mickie Abell

Right-of-Way Specialist

Title





**As Staked**

**Golden West Telecommunications**  
 Name: Fall River County Hwy  
 WD: Oelrichs T22481  
 Exch: Oelrichs  
 Route: Black Banks Rd  
 ROW: Public and Private

Staked By:	CB	Date:	11-21-22
Revised By: <td>M.A. <td>Date: <td>12-13-22</td> </td></td>	M.A. <td>Date: <td>12-13-22</td> </td>	Date: <td>12-13-22</td>	12-13-22
Revised By: <td></td> <td>Date:</td> <td></td>		Date:	
Revised By: <td></td> <td>Date:</td> <td></td>		Date:	
Revised By: <td></td> <td>Date:</td> <td></td>		Date:	
Revised By: <td></td> <td>Date:</td> <td></td>		Date:	
As Built By: <td></td> <td>Date:</td> <td></td>		Date:	

State: South Dakota  
 County: Fall River  
 Twsp: 11S  
 Range: 7E

**CONFIDENTIAL**

Proposed Cable Route  
 Proposed Bore

North Arrow

Sheet 1 of 1



CAUTION: BURIED FACILITIES MAY BE PRESENT. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR LOCATING PRIOR TO CONSTRUCTION.

## APPLICATION FOR PERMIT TO OCCUPY COUNTY HIGHWAY RIGHT-OF-WAY

TO: THE BOARD OF COUNTY COMMISSIONERS

DATE: 12/13/2022

FALL RIVER COUNTY,  
HOT SPRINGS, SOUTH DAKOTA

GW PROJECT NUMBER: 23894 - T22475

Application is hereby made by Golden West Telecommunications, South Dakota for permit to occupy highway right-of-way located from: An existing vault near junction of Commodore Rd and E South Shore Rd.

To: the cul-de-sac at the end of E South Shore Rd.

AERIAL FACILITIES: Location, type and size of the proposed line and anchors with respect to the centerline of the road or outer edge of the right-of-way and location of crossings showing any right-of-way are shown on Exhibit "A" (Sketch) attached.

UNDERGROUND FACILITIES: A sketch showing the approximate route and location of the proposed facility for which a permit is hereby requested is attached as Exhibit "A" and made a part hereof.

The following information is pertinent to the proposed installation:

1. Intended usage or rating: to provide service to the residence at 13100 E South Shore Rd & prepare for others
2. Pipe size, cable size and type: Cable: BFO 48; Duct: Sch 40 PVC
3. Outside diameter: Cable: 0.56" O.D.; Duct: 1.660" O.D.
4. Maximum pressure at which pipeline will be operated: N/A
5. Size and Type of metal casing: N/A
6. Minimum depth of cable or pipeline: 36"
7. Casing will be installed by minimum size boring and will extend from toe of in-slope to toe of in-slope.
8. This installation will comply with the most recently adopted ASA, Code for Gas Transmission and Distribution Pipe systems or the National Safety Code. Marker sign(s) will be installed where appropriate.

The installation and maintenance of said utility facilities will not interfere with or impair construction, maintenance or use of any highway and will comply with all safety regulations of the State and Federal Government. When trenching is done on County R.O.W. the trenches must be tamped to avoid any settlement.

Future adjustments and maintenance will be in accordance with State and Federal Laws and Regulations and will be performed at not cost to the County or the Federal Government.

APPROVED \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
County Chairman

\_\_\_\_\_  
County Auditor

SUBMITTED 13-Dec 20 22

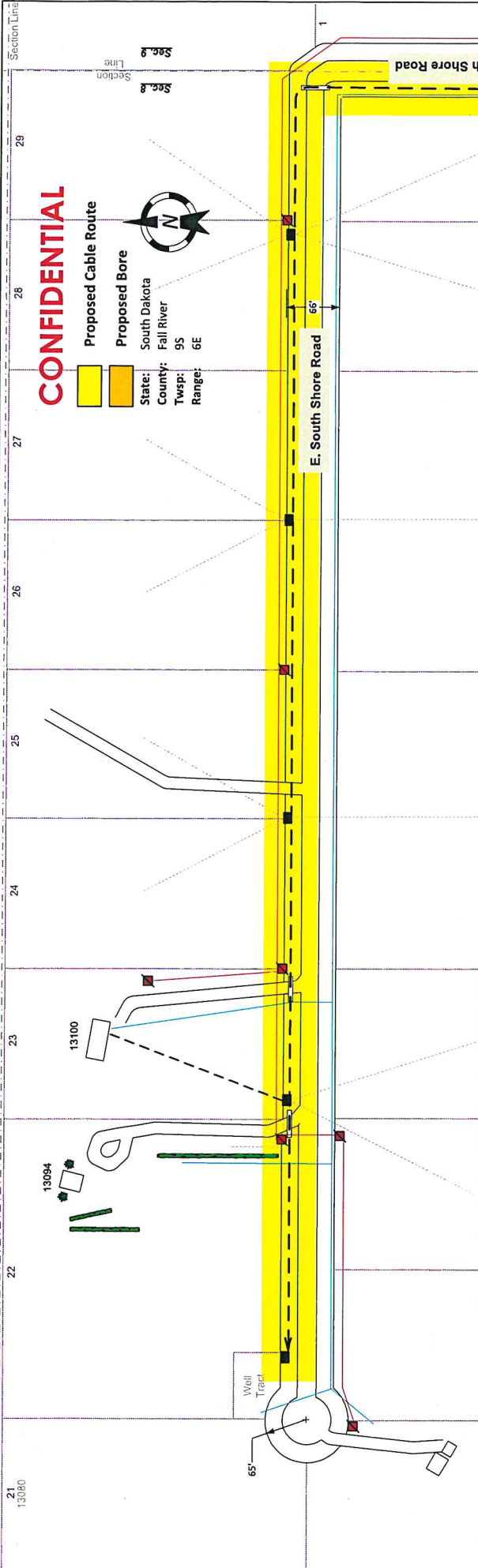
\_\_\_\_\_  
Golden West Telecommunications

By Mickie Abell Mickie Abell

\_\_\_\_\_  
Right-of-Way Specialist

\_\_\_\_\_  
Title





**CONFIDENTIAL**

**Proposed Cable Route**  
**Proposed Bore**  
 State: South Dakota  
 County: Fall River  
 Twp: 9S  
 Range: 6E

E. South Shore Road

E. South Shore Road

As Staked			
Golden West Telecommunications			
Name:	Fall River Co Hwy		
WD:	Hot Springs T22475		
Exch:	Oelrichs		
Route:	E South Shore Rd		
ROW:	Public and Private		
Staked By:	SEE	Date:	12-13-22
Revised By:	MAA	Date:	12-13-22
Revised By:		Date:	
Revised By:		Date:	
Revised By:		Date:	
Revised By:		Date:	
As Built By:		Date:	
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Sheet	1	of	1



CAUTION: BURIED FACILITIES MAY BE PRESENT. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR LOCATING PRIOR TO CONSTRUCTION.



## APPLICATION FOR PERMIT TO OCCUPY COUNTY HIGHWAY RIGHT-OF-WAY

TO: THE BOARD OF COUNTY COMMISSIONERS

DATE: 12/13/2022

FALL RIVER COUNTY,  
HOT SPRINGS, SOUTH DAKOTA

GW PROJECT NUMBER: 23998 - T22505

Application is hereby made by Golden West Telecommunications, South Dakota for permit to occupy highway right-of-way located from: the fenceline south of the driveway 28423 Old Hwy 79  
To: an existing vault approximately 390' north of said fenceline.

AERIAL FACILITIES: Location, type and size of the proposed line and anchors with respect to the centerline of the road or outer edge of the right-of-way and location of crossings showing any right-of-way are shown on Exhibit "A" (Sketch) attached.

UNDERGROUND FACILITIES: A sketch showing the approximate route and location of the proposed facility for which a permit is hereby requested is attached as Exhibit "A" and made a part hereof.

The following information is pertinent to the proposed installation:

1. Intended usage or rating: to replace damaged fiber.
2. Pipe size, cable size and type: Cable: BFO 6
3. Outside diameter: Cable: 0.48" O.D.
4. Maximum pressure at which pipeline will be operated: N/A
5. Size and Type of metal casing: N/A
6. Minimum depth of cable or pipeline: 36"
7. Casing will be installed by minimum size boring and will extend from toe of in-slope to toe of in-slope.
8. This installation will comply with the most recently adopted ASA, Code for Gas Transmission and Distribution Pipe systems or the National Safety Code. Marker sign(s) will be installed where appropriate.

The installation and maintenance of said utility facilities will not interfere with or impair construction, maintenance or use of any highway and will comply with all safety regulations of the State and Federal Government. When trenching is done on County R.O.W. the trenches must be tamped to avoid any settlement.

Future adjustments and maintenance will be in accordance with State and Federal Laws and Regulations and will be performed at not cost to the County or the Federal Government.

APPROVED \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
County Chairman

\_\_\_\_\_  
County Auditor

SUBMITTED 13-Dec 20 22

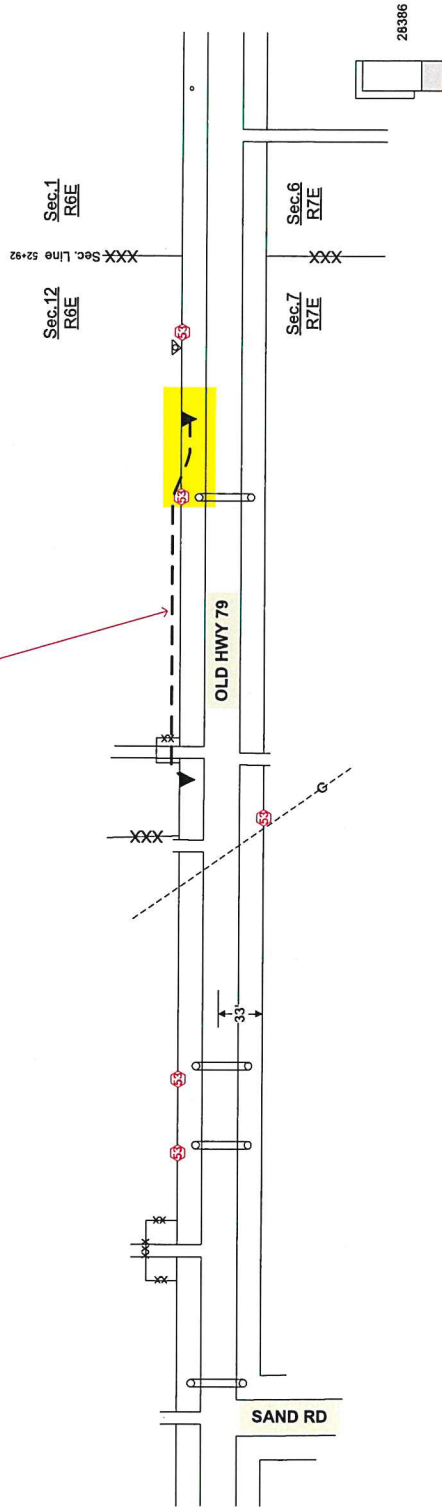
Golden West Telecommunications

By Mickie Abell Mickie Abell

Right-of-Way Specialist

Title

Replace cut cable. Follow existing route.



**CONFIDENTIAL**



Proposed Cable Route

State: South Dakota  
County: Fall River  
Twp: 9S  
Range: 6E

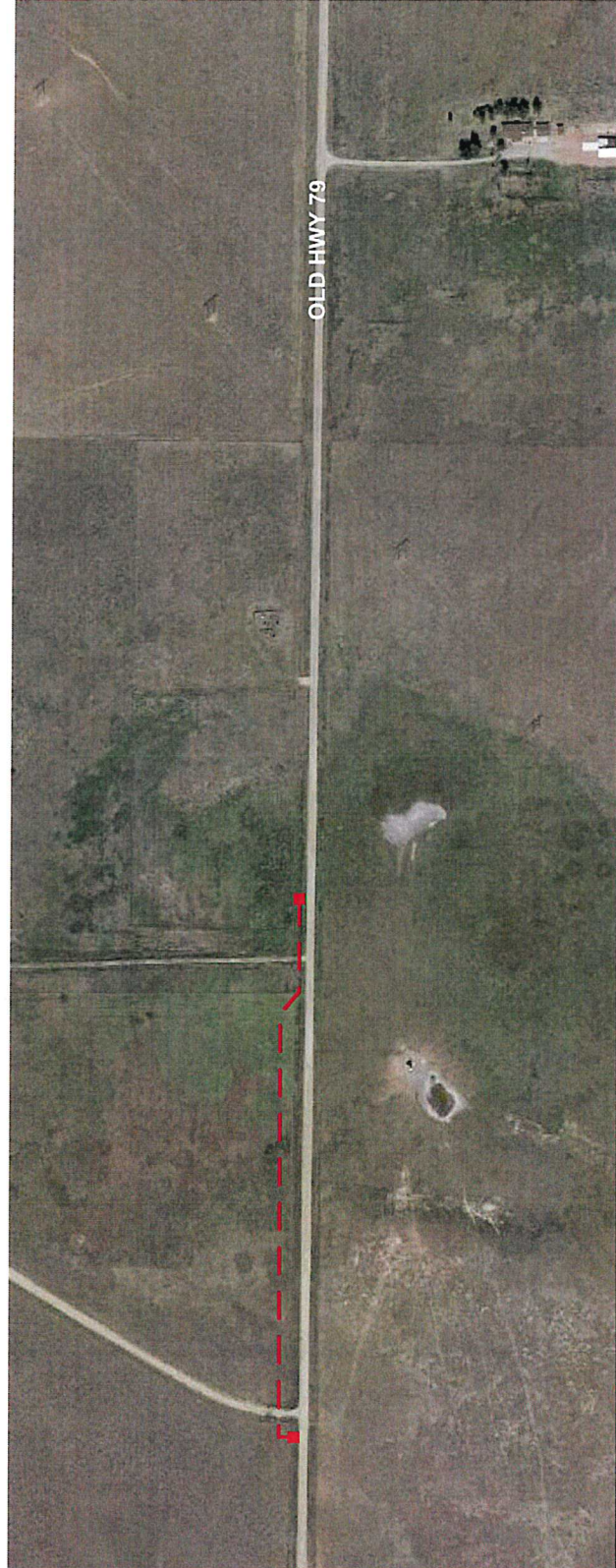


As Staked

Golden West Telecommunications

Name: Fall River Co Hwy  
WO: Oelrichs 722505  
Ech: Oelrichs  
Route: Old Hwy 79  
ROW: Public and Private

Staked By:	SEF	Date:	11-26-22
Revised By:	MJA	Date:	12-13-22
Revised By:		Date:	
Revised By:		Date:	
Revised By:		Date:	
Revised By:		Date:	
As Built By:		Date:	
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Sheet	1	of	1



CAUTION: BURIED FACILITIES MAY BE PRESENT. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR LOCATING PRIOR TO CONSTRUCTION.



## APPLICATION FOR PERMIT TO OCCUPY COUNTY HIGHWAY RIGHT-OF-WAY

TO: THE BOARD OF COUNTY COMMISSIONERS

DATE: 12/13/2022

FALL RIVER COUNTY,  
HOT SPRINGS, SOUTH DAKOTA

GW PROJECT NUMBER: 24026 - T22515

Application is hereby made by Golden West Telecommunications, South Dakota for permit to occupy highway right-of-way located from: the north property line of 13292 N Angostura Rd

To: a new vault at the south property line of 13296 N Angostura Rd

AERIAL FACILITIES: Location, type and size of the proposed line and anchors with respect to the centerline of the road or outer edge of the right-of-way and location of crossings showing any right-of-way are shown on Exhibit "A" (Sketch) attached.

UNDERGROUND FACILITIES: A sketch showing the approximate route and location of the proposed facility for which a permit is hereby requested is attached as Exhibit "A" and made a part hereof.

The following information is pertinent to the proposed installation:

1. Intended usage or rating: to provide service to the residence at 13296 N Angostura Rd
2. Pipe size, cable size and type: Cable: 6ga-22pr copper cable
3. Outside diameter: Cable: 0.43" O.D.
4. Maximum pressure at which pipeline will be operated: N/A
5. Size and Type of metal casing: N/A
6. Minimum depth of cable or pipeline: 36"
7. Casing will be installed by minimum size boring and will extend from toe of in-slope to toe of in-slope.
8. This installation will comply with the most recently adopted ASA, Code for Gas Transmission and Distribution Pipe systems or the National Safety Code. Marker sign(s) will be installed where appropriate.

The installation and maintenance of said utility facilities will not interfere with or impair construction, maintenance or use of any highway and will comply with all safety regulations of the State and Federal Government. When trenching is done on County R.O.W. the trenches must be tamped to avoid any settlement.

Future adjustments and maintenance will be in accordance with State and Federal Laws and Regulations and will be performed at not cost to the County or the Federal Government.

APPROVED \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
County Chairman

\_\_\_\_\_  
County Auditor

SUBMITTED 13-Dec 20 22

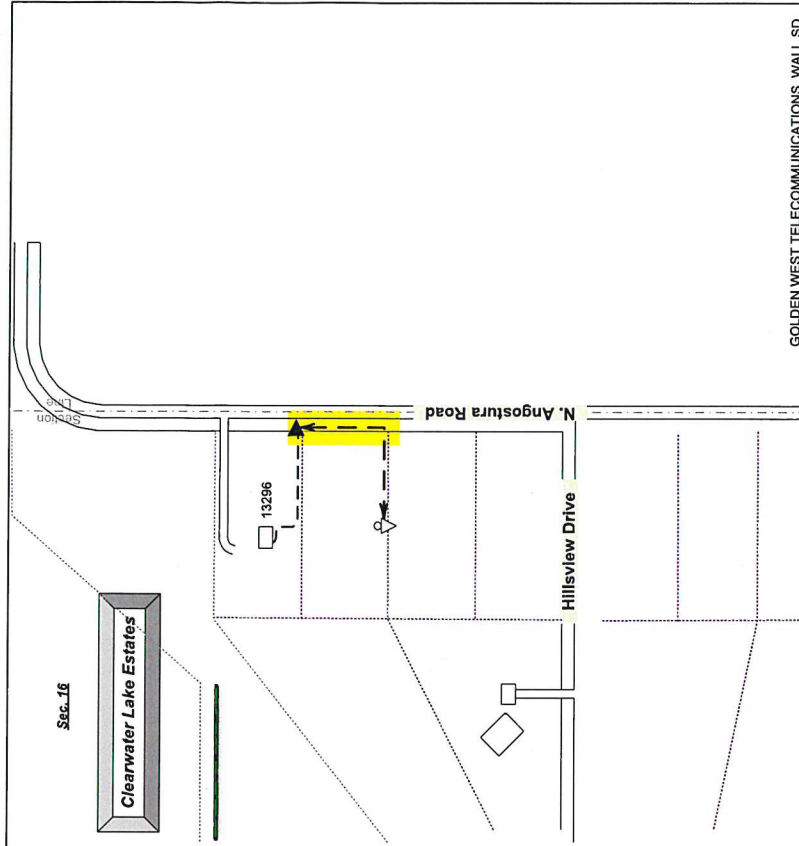
\_\_\_\_\_  
Golden West Telecommunications

By Mickie Abell Mickie Abell

\_\_\_\_\_  
Right-of-Way Specialist

\_\_\_\_\_  
Title





GOLDEN WEST TELECOMMUNICATIONS, WALL SD

**CONFIDENTIAL**

Proposed Cable Route



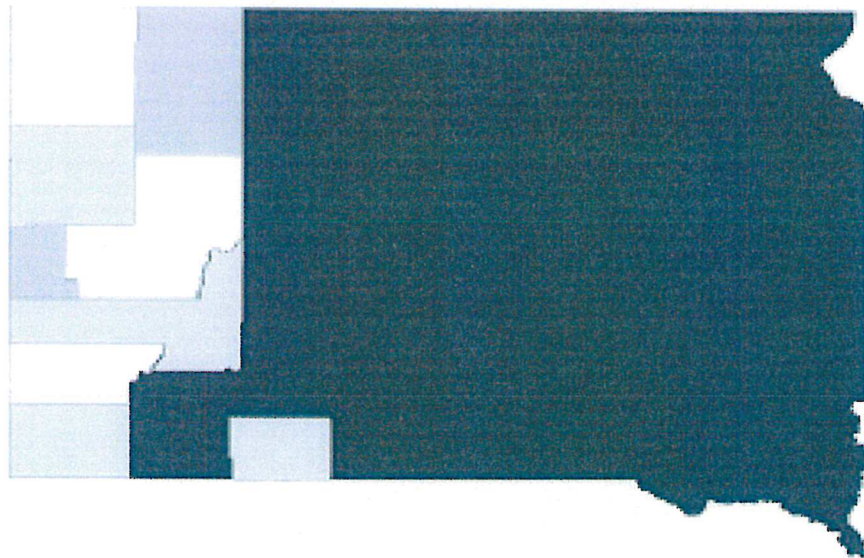
State: South Dakota  
County: Fall River  
Section: 16  
Township: 8S  
Range: 6E

As Staked			
Golden West Telecommunications			
WO:	T22515		
Exchange:	Hot Springs		
Route:	N Angostura Rd		
ROW:	Public and Private		
Staked By:	SEF	Date:	12-5-22
Revised By:	MLA	Date:	12-13-22
Revised By:		Date:	
Revised By:		Date:	
Revised By:		Date:	
Plowed By:		Date:	
As Built By:		Date:	
Drawing Not To Scale			
Sheet	1	of	1

CAUTION: BURIED FACILITIES MAY BE PRESENT. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR LOCATING PRIOR TO CONSTRUCTION.



## 2020-2022 Performance Report



730 E Watertown St, Rapid City, SD 57701

Phone: (605) 394-2681

Email: [jsietsema@wrbsc.com](mailto:jsietsema@wrbsc.com)

Website: <https://www.blackhillscouncil.com/>



## Member Representatives

Bennett County - Jeff Slattery, Commissioner  
Butte County - Kim Richards, Commissioner  
Custer County - Steve Esser, Emergency Manager  
Fall River County - Deb Russell, Commissioner  
Harding County - Dean Wagner, Commissioner  
Lawrence County - Randy Deibert, Commissioner  
Meade County - Doreen Creed, Commissioner  
Pennington County - Gary Drewes & Ron Rossknecht, Commissioners  
Perkins County - Mike Schweitzer, Commissioner

City of Martin - Gary Rayhill, Mayor  
City of Belle Fourche - Randy Schmidt, Mayor  
City of Custer City - Tim Hartmann, Planning Director  
City of Hot Springs - Bob Nelson, Mayor  
City of Deadwood - Sharon Martinisko, City Council  
City of Lead - John Wainman, City Administrator  
City of Spearfish - Steve McFarland, City Administrator  
City of Sturgis - Kevin Forrester, City Council  
City of Summerset - Melanie Torno, Mayor  
City of Box Elder - Larry Larson, Mayor  
City of Rapid City - Ritchie Nordstrom, Pat Roseland, & Jesse Ham, City Council  
City of Lemmon - Chad Abel, Finance Officer

## Executive Board Members

Chairman - Randy Deibert, Lawrence County Commissioner  
Vice Chairman - Gary Drewes, Pennington County Commissioner  
Secretary - Ritchie Nordstrom, Rapid City Council Member  
Treasurer - Larry Larson, Mayor of Box Elder

## Staff

Jennifer Sietsema - Executive Director  
Bill Lass - Senior Community Development Planner  
Lysann Zeller - Community Development Planner/GIS Specialist  
Kailey Snyder - Resiliency and Mitigation Planner  
Sally Uhrig - Administrative Assistant



## Introduction

This report is a summary of the services provided by Black Hills Council of Local Governments (BHCLG) from January 1, 2020, through year-end 2022. The document contains general organization information, regional service highlights, and specific work activities listed by county.

## Background

BHCLG is a voluntary association of county and municipal governments that was established in 1972. The nine (9)-county region is a U.S. Economic Development Administration designated "Economic Development District." BHCLG is considered a "quasi-governmental" organization.

## Services

BHCLG provides the following technical and administrative assistance:

- Grant & Loan Application Writing
- Project Administration
- Research & Information Source
- Land Use Planning & Ordinance Development
- Comprehensive Planning
- Mitigation Planning
- HazMat Plan Updates
- Redistricting Assistance
- Annexation Studies
- Floodplain Management Assistance
- Mapping/GIS (Geographic Information Systems)
- Environmental Reviews
- Strategic Planning
- Davis-Bacon Act Monitoring

## Funding

BHCLG is financed through membership dues, administrative charges, state and federal agency service contracts, special purpose grants, and technical assistance fees. The 2021 expense budget was \$405,026. Approximately 18.9% of BHCLG funding comes from local government dues.

## 2020-2022 Highlights

The following programs, services, and assistance activities were provided throughout the region:

- A total of 153 applications were prepared.
- Successful proposals resulted in \$318,296,223 of outside funding since January 2020.
- BHCLG received an additional \$146,435 in direct funding.
- BHCLG's administration of the regional CEDS and cooperation with BHCED and SBDC program partners resulted in loans closed that accounted for 116 retained and 140 new jobs. BHCED has a loan portfolio totaling \$54,300,000 and a total of 120 loans.
- BHCLG directly provided 2020 Census information and/or assistance to five (5) counties and six (6) cities for redistricting.
- BHCLG, under a contract from the SD Bureau of Finance and Management, finalized assistance to our 10 counties and 38 cities in accessing an initial allocated amount of \$45,138,333 from the CARES Act. This activity required providing direct guidance to meet the program rules and communicating on-going updates throughout the process.
- Provided information and assistance to all cities and counties with their direct allocation of American Rescue Plan Act funding. Total ARPA allocation in our region is \$50,929,618.
- District staff has continued in-person meetings whenever necessary through the on-going pandemic. Zoom meetings have played a larger role in day-to-day activities. Specific metrics were not tracked, but this method of communicating with members played a significant role in meeting the significant increase in work activity caused by stimulus funds.
- Two (2) county Mitigation Plans were completed this year and work continues to secure funding for three (3) more.
- Nine (9) cities and counties were assisted with land use planning or municipal ordinances assistance, creation, or revisions.
- Six (6) communities and counties were assisted with comprehensive planning.
- Numerous local governments and private businesses were assisted with registering/updating of the System for Award Management. SAM requires active status to be eligible for federal program application and award.
- Provided on-going information on numerous grant and loan programs available to cities and counties in the region.
- Participated in County Association meetings and Municipal League district meetings in the region.
- Prepared State Water Plan and Small Water Facilities Funding applications for the Town of Morristown (Corson County) Water System Improvements Project (\$202,600 in DANR funding awarded).

## Overall Funding Total

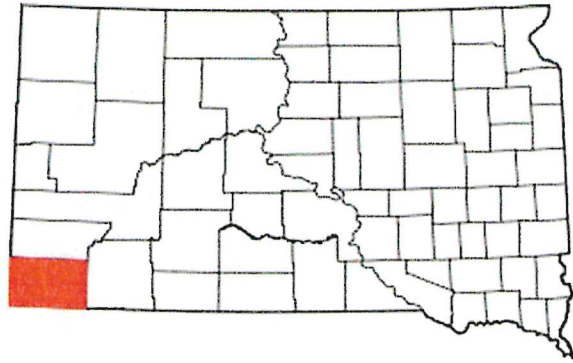
Since 2000, BHCLG has assisted its membership in obtaining \$491,880,607 in outside funding assistance. This figure represents \$2,577, for every person in the region (based on 2020 Census population data). It also results in a return on investment for our members at a ratio of \$318 to \$1.

## Acronyms Used In This Report

AFG	Assistance to Firefighters Grant - FEMA
ARPA	American Rescue Plan Act
BBB	Bulldoze, Build & Beautify - CDBG/GOED
BHCED	Black Hills Community Economic Development
CAG	Community Access Grant - DOT
CARES	Coronavirus Aid, Relief, and Economic Security Act
CDBG	Community Development Block Grant - GOED
CEDS	Comprehensive Economic Development Strategy
CF	Community Facilities - USDA RD
CWFCP	Consolidated Water Facilities Construction Program - DANR
CWPP	Community Wildfire Protection Plan
CWSRF	Clean Water State Revolving Fund - DANR
DANR	Department of Agriculture and Natural Resources
DOT	Department of Transportation (South Dakota)
DWFF	Drinking Water Facilities Funding - DANR
DWSRF	Drinking Water State Revolving Fund - DANR
EDA	Economic Development Administration (U.S.)
EDPP	Economic Development Partnership Program - GOED
EII	Economic Impact Initiative - USDA RD
EPA	Environmental Protection Agency
ESSER	Elementary and Secondary School Emergency Relief Fund
FEMA	Federal Emergency Management Agency
FLAP	Federal Lands Access Program
GF&P	Game, Fish & Parks (South Dakota)
GOED	Governor's Office of Economic Development
HMGP	Hazard Mitigation Grant Program - OEM
LEP	Limited English Proficiency - USDA RD
LIIP	Local Infrastructure Improvement Program - GOED
LWCF	Land and Water Conservation Fund - GF&P
OEM	Office of Emergency Management (South Dakota)
PDM	Pre-Disaster Mitigation - OEM
RTP	Recreational Trails Program - GF&P
SAM	System for Award Management
SBDC	Small Business Development Center
SCPG	Small Community Planning Grant - DANR
SDCFG	South Dakota Community Foundation Grant
SDHDA	South Dakota Housing Development Authority
SHPO	State Historic Preservation Office (South Dakota)
SRF	State Revolving Fund - DANR
SSFF	Sanitary/Storm Sewer Facilities Funding - DANR
SWFF	Small Water Facilities Funding - DANR
SWMG	Solid Waste Management Grant – DANR
SWP	State Water Plan - DANR
TA	Transportation Alternatives - DOT
USDA RD	United States Department of Agriculture Rural Development
WWTP/F	Wastewater Treatment Plant/Facility



# Fall River County



## Return on Investment 2000-2022

Assistance Obtained

\$30,082,837

Dues Paid

\$125,158

*Return on Investment = 240 to 1*

## Recent Applications – Since January 1, 2020

Applicant	Project	Funding Agency	Amount Requested	Amount Approved	Status
Angostura Irrigation District	Water Main Repair Project - SWP	DANR	\$196,000	NA	Approved
Edgemont	Water Improvements: Iron Filtration - DWSRF	DANR	\$637,000	\$637,000	Awarded
Edgemont	BBB Funding for 300 K Street - CDBG	GOED	\$9,600	\$9,600	Awarded
Fall River Water Users	Fairburn Well & South Improvements - DWSRF	DANR	\$10,007,000	\$10,007,000	Awarded
Hot Springs	Hwy. 385/18 Water & Sewer - CDBG	GOED	\$565,975	\$565,975	Awarded
Hot Springs	Road Reconstruction by Schools and Clinic - CAG	DOT	\$587,620	\$580,000	Awarded
Hot Springs	New Well and Water Storage - SWP	DANR	\$4,250,000	NA	Approved
Hot Springs	North River Street Water Main Replacement - SWP	DANR	\$392,000	NA	Approved
Hot Springs	North River Street Sewer Main Replacement - SWP	DANR	\$704,000	NA	Approved
Hot Springs	North 24 <sup>th</sup> Street Sewer Replacement - SWP	DANR	\$638,525	NA	Approved
			<b>TOTAL</b>	<b>\$11,799,575</b>	

## Recent Work Activities

- Prepared and assisted in the development of the 10 applications listed above in Fall River County.
- Completed assistance to Fall River County and all cities for CARES money allocated by the State. Fall River County was allocated \$443,459. The allocation for cities within Fall River County was \$982,073.
- Assisted counties and cities with ARPA allocated funding. Initial allocations for Fall River County and cities within were \$1,303,922.
- Update to Fall River County HazMat Plan in progress.
- Provided information to Fall River County Emergency Manager on mitigation projects.
- Completed public hearing for Hot Springs Drinking Water Improvements project.
- Completed SRF administration for Oelrichs Drinking Water Improvements project.
- Completed Davis-Bacon administration for Oelrichs Drinking Water Improvements SRF project.
- Completed Benefit-Cost Analysis for City of Hot Springs generator project.
- Completed Environmental Review for CDBG program funding for Hwy 385 project.
- Provided CDBG project administrative assistance to Hot Springs on Hwy 385 project.
- Continued SRF administration of Edgemont Drinking Water Project – Phases 1-3.
- Assisted in the preparation and adoption of the City of Hot Springs Comprehensive Plan.
- Provided information on grants for community garden fencing project in Edgemont.
- Provided information to Fall River County regarding USDA funding for roads and infrastructure for meat processing facility.
- Facilitated meetings with BHNH Counties for Forest Plan Revision.





# Black Hills Council of Local Governments Newsletter

730 E Watertown Street, Ste 102  
Rapid City, SD 57701  
Phone: (605) 394-2681

## From Your Director...

March 2, 2023 will mark three years since I started as Executive Director with Black Hills Council of Local Governments; February marks 16 years with the planning districts. I have had so many wonderful experiences working with local governments. Although each community and each project have its own set of challenges, I've learned over the years that local government *is* the best place for elected officials to make a real difference in their communities; a true opportunity to make life better for those around them.

Working for the planning districts continues to be rewarding and gratifying work for myself and BHCLG staff because we get to witness and be part of the projects happening in our region. It is with sincere appreciation for our City Council Members, County Commissioners, Elected Officials, and city and county staff that we show up every day in hopes that, we too, can affect positive change in Western South Dakota.

Black Hills Council staff have been involved with more than 135 specific projects in the areas of planning, GIS, grant and loan applications, project administration, and other community and economic development activities in 2022. We were fortunate to assist our members in obtaining over \$326,348,723 (Yes! You read that correctly, **over \$326 MILLION**) in grants and low interest loans for various community and economic development projects since 2020 when I became director. The resulting return on investment equates to **\$1,463 for every dollar** of membership dues paid from 2020 through 2022.

While it would be easy to take credit for the incredible amount of work output from our organization over the past three years, the successes that have been realized have little to do with me. There are two major contributing factors for this type of return on investment:

- 1) First, this was *only* possible because BCHLG retains loyal and dedicated staff who have worked countless hours above and beyond a typical 40-hour work week in effort to ensure our members receive quality service; without their personal sacrifices and commitment to service, we would be stuck in 2020 still trying to get applications out the door.
- 2) Second, it would be short-sighted not to acknowledge that funding opportunities for water and wastewater infrastructure increased dramatically with the passage of the American Recovery Plan Act (ARPA); allowing applicants who would normally be ineligible for grant funds to apply for infrastructure improvements, which in turn resulted in widespread interest in the typical funding programs we administer.

I am very grateful and proud of our team as they continue to provide a wide variety of technical services to our members with outstanding professionalism. Our **five (5)** dedicated employees have over 54 combined years of experience working for the District. Having knowledgeable, trained staff helps with efficiency and allows projects to run smoothly even during times when there are changes in program administrators and staff at the State and Federal level. With that in mind, I'd like to take the opportunity to remind our members of the services that we have been providing for more than 50 years:





(Page 2)

**Planning for Community and Economic Development** - BHCLG provides a large variety of planning services including but not limited to - Capital Improvement Plans, Utility Rate Analysis, Comprehensive Plans, Hazard Mitigation Plans, Local Emergency Operations Plan Updates, Community Wildfire Protection Plan Updates, Housing Needs Assessments, Policy Development, Strategic Planning, and Zoning Ordinance Development. Your Community and Economic Development Planning contacts are Jennifer Sietsema, Kailey Snyder, Lysann Zeller.

**Geographic Information Systems (GIS)** - Geographic Information Systems (GIS) is an important, inter-related component of all the services provided by BHCLG. Staff maintains a wide variety of GIS data used for the creation of maps, policy development, project funding, GIS training, and redistricting. Your GIS contacts are Lysann Zeller and Kailey Snyder.

**Grant/Loan Application & Project Administration** - One of the most common areas of assistance Black Hills Council provides to its members is identifying, acquiring, and administering funding sources for local community and economic development projects. Such projects range from sewer and water infrastructure to community facilities like community centers or fire halls. Your Grant/Loan Application and Project Administration contacts are Bill Lass and Lysann Zeller.

**Business Development** - Our partner organizations, Black Hills Community Economic Development and the Small Business Administration are co-located in the West River Business Service Center with us and can provide assistance to small businesses. SBA and BHCED promote economic development and job creation by providing long-term commercial loans. Business development contacts are Fran White and Dona Fisher.

**Administrative Assistant and Davis Bacon Specialist** - Many federal programs require compliance with the Davis Bacon Act. Black Hills Council has administrated Davis Bacon on thousands of projects over our 50-year history as a planning district. In recent years with the passage of the CARES Act and American Recovery Plan Act (ARPA) the planning district has been contracted by non-member entities to administer Davis Bacon on capital projects. Davis Bacon administrative services contacts are Jennifer Sietsema and Sally Uhrig.

**If you have upcoming projects** that involve the expertise listed above, please contact us as soon as possible. Securing funding for projects is a process and application submissions are deadline sensitive. It is best to contact us early to ensure your project funding applications can be completed on time and all the program requirements can be met.

## **Board Member Changes**

**As a reminder: If you have changes to your designated BHCLG Board representatives, please contact Sally or Jennifer so we can update our points of contact.**

I want to recognize our Executive Board Members who will not be returning to the Board in 2023: Chairman Randy Deibert (Lawrence County Commissioner), Vice Chair Gary Drewes (Pennington County Commissioner), and Secretary Ritchie Nordstrom (Rapid City Council Member). I have appreciated their service and guidance over the past two years. With three of the four Executive Board Members not returning, members are encouraged to reach out to me if you're interested in serving in this capacity or would like to recommend someone. Nominations and elections for Executive Board will take place at the January meeting. A special thank you is warranted for our Treasurer, Larry Larson. He is our designated second signatory on checks and he stops in each month to sign checks. His willingness and cooperation to do this for our organization helps business run smoothly.





(Page 3)

I would also like to recognize Dean Wagner (Harding County Commissioner) and Kim Richards (Butte County Commissioner) who have served on our governing board for many years. Both have provided valuable insight and discussion at the BHCLG meetings and their institutional knowledge has been helpful through the transition of becoming the new director.

On behalf of the entire Black Hills Council staff, we want to thank the Governing Board and our members for their continued support. It is a privilege to continue serving you and we look forward to a prosperous new year. **Merry Christmas!**

### **Natural Hazard Mitigation Planning**

Black Hills Council worked with Meade County and Perkins County to secure grant funding for the purpose of updating their natural hazard mitigation plans and subsequently completed the update to their Plans. Mitigation Planning serves as a strategic planning tool for counties and communities in effort to mitigate the impact of natural hazards. In order to be the recipient of certain FEMA funding, counties are required to develop a mitigation plan, review it annually, and complete a comprehensive update every 5 years.

BHCLG is pleased to announce that it was successful in assisting Pennington, Harding, and Custer Counties in acquiring grant funds for their mitigation plan updates. The planning process for Custer County is underway; Pennington and Harding counties will begin in 2023.

Additionally, BHCLG is currently assisting Lawrence, Bennett, and Butte Counties in securing funding for their plan updates, which will expire in 2024.

### **HMGP Funding for Disasters 4656 & 4664**

South Dakota received a Presidential Disaster Declaration as a result of June 2022 statewide severe storms, tornadoes, straight-line winds, and flooding. Subsequently, approximately \$1,254,600.00 of funding is now available for local governments and certain private non-profit organizations to apply for hazard mitigation projects that will reduce the loss of life, property, and critical infrastructure by reducing the impacts of natural hazards such as wildfire, severe storms, and flooding. If you are interested in finding out more about the eligibility of mitigation projects, please contact Jennifer or Kailey. **The deadline for application submittal is March 8, 2023. \*Program requires an environmental review and benefit cost analysis, therefore applicants must contact BHCLG prior to January 10, 2023 if interested in this program.**

### **SAVE THE DATE!**

**The 2023 GOED Conference** will be hosted from April 24th to April 25th at the Sioux Falls Convention Center. Visit <https://sdgoed.com/partners/2023-goed-conference/> for more information

## BHCLG Executive Board

Ritchie Nordstrom.....	Secretary Rapid City Council Member
Randy Deibert.....	Chairperson Lawrence County Commission
Gary Drewes.....	Vice Chair Pennington County Commission
Larry Larson.....	Treasurer Box Elder Mayor
Jennifer Sietsema.....	Executive Director

## Upcoming Dates

January 1, 2023- DANR Quarterly deadline for funding applications (water/sewer/solid waste)

January 26, 2023 – BHCLG Quarterly Meeting @12:00pm (lunch provided), Election of Officers

March 8, 2023- SDOEM funding deadline for HMGP applications (mitigation)

April 1, 2023—CDBG funding deadline (community facilities or water/sewer improvements)

April 1, 2023—DANR Quarterly deadline for funding (water/sewer/solid waste)

April 7, 2023—SDGFP deadline for Recreational Trails Program funding applications

April 27, 2023—BHCLG Quarterly Meeting @12:00pm (lunch provided)

April 28, 2023—SDGFP deadline for Land and Water Conservation Fund applications  
(outdoor recreation)





**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

December 19, 2022

Dear City, County, or Tribal Official:

Enclosed you will find a copy of a public notice recommending the renewal of four solid waste general permits. State law requires that our department notify every municipality, county, and tribal government in the state upon public notice of a proposed general permit. This notice is required regardless of whether you are authorized under a general permit or not. You are not obligated to respond.

The proposed general permits will be issued statewide, and are individually titled as follows:

1. General Permit for Construction and Demolition (C&D) Debris Disposal Facilities
  - C&D disposal facilities are allowed to bury construction/demolition debris, furniture, and similar inert waste materials. Trees, branches, and untreated wood can also be open burned at C&D disposal facilities.
2. General Permit for Restricted Use Solid Waste Disposal Facilities
  - Restricted use sites can bury and open burn the same wastes allowed at C&D disposal facilities. Restricted use sites are also allowed to compost yard waste and temporarily store scrap metal, white good appliances, and waste tires for recycling or disposal at off-site facilities.
3. General Permit to Store and/or Land Apply Solid Waste
  - The general permit to store and/or land apply solid waste is potentially applicable to any operator proposing to land apply solid waste material that has nutrient value for soil and vegetation.
4. General Permit to Store and/or Land Apply Dairy Processing By-Products
  - The general permit to store and/or land apply dairy processing by-products is potentially applicable to dairy processors that wish to dispose of whey, whey permeate, or waste milk by land application.

Please refer to the enclosed public notice for specific information about the proposed permits and the approval process. This recommended action is for the renewal of existing general permits. The proposed general permits do not contain significant changes to the location, design, operating, recordkeeping, and closure requirements already stated in the existing general permits.

Anyone operating a facility already authorized by one of these general permits will continue to operate under the existing general permit until the operator applies for and receives a new authorization.

If you would like to comment on any of the proposed general permits, please write us or contact Kalyndi Martin of the Waste Management Program at (605) 773-3153.

Sincerely,

Jim Wendte, P.E.  
Waste Management Program

Enclosure

**NOTICE OF REISSUANCE OF SOLID WASTE GENERAL PERMITS**  
**Recommendation by the SD Department of Agriculture and Natural Resources**

The South Dakota Department of Agriculture and Natural Resources (department) recommends to the Board of Minerals and Environment (board) that four different general permits be reissued statewide for four different types of solid waste facilities. Solid waste general permits are authorized by South Dakota Codified Law (SDCL) 34A-6-58 and the Administrative Rules of South Dakota (ARSD) Chapter 74:27:10. Owners or operators of solid waste facilities authorized under a general permit must comply with all of the terms and conditions of the applicable general permit. If the owner or operator does not comply with all of the terms and conditions of a general permit, the owner or operator is subject to civil penalties as described in SDCL 34A-6-1.31.

The four general permits recommended for reissuance and their individual titles are as follows:

1. General Permit for Construction and Demolition (C&D) Debris Disposal Facilities
2. General Permit for Restricted Use (RU) Solid Waste Disposal Facilities
3. General Permit to Store and/or Land Apply Solid Waste
4. General Permit to Store and/or Land Apply Dairy Processing By-Products

The proposed general permits are potentially applicable to any operator proposing to operate any of the four facilities described above. The proposed general permits contain procedures for obtaining coverage under the general permit, location requirements, design requirements, operational requirements, recordkeeping and reporting requirements, compliance requirements, closure requirements, and a financial assurance provision. Prior to obtaining coverage under a general permit, an applicant is required to: (1) publish a notice of intent to operate a solid waste facility in an official newspaper in the county in which the facility is located, and (2) submit a request for authorization to the department. The request for authorization is a detailed account of the site conditions and proposed methods of operation. The general permits outline siting and location restrictions. Minimum separation distances are stipulated for wetlands, surface water, dwellings, drinking water wells, aquifers, floodplains, and property boundaries. Design requirements include acreage limitations, surface water control, fire control, and access control. Operational requirements may include waste handling, waste separation, routine inspections, vector control, open burning requirements, composting requirements, and salvaging. Compliance requirements are stipulated and penalties for violations are outlined. The permits also contain general information and requirements, along with provisions for amendments, revocation, suspensions, and transfers.

In accordance with SDCL 34A-6-1.14, thirty days after the publication of this notice, the department's recommendation for approval shall become the final decision and the general permits will be issued by the department unless a person adversely affected or having an interest adversely affected by the department's recommendation for approval petitions the board for a contested case hearing. The petition must comply with the requirements of ARSD 74:09:01:01. If a petition for such a hearing is not filed within thirty days of this publication date, the general permits will be formally and finally issued at that time. The general permits will be valid until suspended, revoked, or modified by the board, as specified in SDCL 34A-6-58.



Copies of the proposed general permits are available from the department and may be obtained upon request from: Department of Agriculture and Natural Resources, Waste Management Program, 523 East Capitol Avenue, Pierre, South Dakota, 57501-3182, Attn.: Kalyndi Martin, telephone (605) 773-3153. Copies of the draft general permits will be available at <https://danr.sd.gov/Public/>.

A handwritten signature in black ink, appearing to read "Hunter Roberts", is written over a horizontal line.

Hunter Roberts, Secretary  
Department of Agriculture and Natural Resources

Published at the approximate cost of \_\_\_\_.