



**BOARD OF COMMISSIONERS AGENDA
TUESDAY, FEBRUARY 18, 2025
5:30 PM - COMMISSION CHAMBERS – 503 S HIGHLAND
AVENUE**

Please join the Zoom meeting from your computer, tablet or smartphone.
<https://us06web.zoom.us/j/88526683369> | Meeting ID: 885 2668 3369
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+1 312-626-6799

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ADOPT AGENDA

CONSENT CALENDAR

- 1) Minutes – February 3, 2025
- 2) Bills for Approval – February 19, 2025
- 3) Bills for Ratification – February 12, 2025
- 4) Payroll Bills for Ratification – January 31, 2025
- 5) Personnel
- 6) Approve Independent Contractor Agreement with Ellie Wills for Animal Control Services

UNFINISHED BUSINESS

NEW BUSINESS

- 7) Approve permanent drainage easement with SD Board of Regents
- 8) Authorize Mayor to Sign City of Madison ARPA Projects - Segments 2-6 Engineering Services Agreement Amendment No. 1 - Banner Associates
- 9) Review of Open Meeting Law and Conflicts of Interest
- 10) February 2025 Finance Updates

PUBLIC COMMENT

ANNOUNCEMENTS

- 11) Next Regular Commission Meeting – Monday, March 3, 2025 at 5:30 pm

ADJOURN

Anyone wishing to speak to an item on the agenda must be acknowledged by the chair and come to the podium to address the Mayor and City Commission. Addressing other audience members will not be permitted.

Supplementary agenda information may be accessed at www.cityofmadisonsd.com

If special accommodations are necessary to attend any Board of Commissioners meeting, please contact the Finance Office at (605) 256-7500 at least 24 hours before meeting time. All attempts shall be made to accommodate a request.

**CITY OF MADISON
BOARD OF COMMISSIONERS PROCEEDINGS
MADISON, SD 57042**

February 3, 2025
Regular

The Board of Commissioners of the City of Madison met in regular session at 5:30 PM on the 3rd day of February with the following members present upon roll call: Commissioners Kelly Dybdahl, Sarah Cronin, Adam Shaw, and Mayor Lindsay. Commissioner Jeræ Wire was absent.

The Pledge of Allegiance was recited.

Motion by Commissioner Shaw, seconded by Commissioner Dybdahl to adopt the February 3, 2025 agenda. Motion carried unanimously.

Motion by Commissioner Dybdahl, seconded by Commissioner Cronin to approve the following items on the consent calendar: Minutes – January 21, 2025; Bills for Approval – February 5, 2025; Bills for Ratification – January 29, 2025; Payroll Bills for Ratification – January 17, 2025; Set Bid Date – Bid No. 972 – Sidewalk Improvement Project 2025-1 – February 27, 2025 – 10:00 AM; Approve Application for Video Lottery Machines – Classic Corner.

Bills for Approval – February 5, 2025

ACE HARDWARE Hardware & Batteries \$226.08; AMERT CONSTRUCTION CO Parks Restroom Project \$30,938.00; APPEARA Mat Rentals \$123.32; ASPHALT SURFACING COMPANY Water System Improvements \$31,898.98; AVERA HEART HOSPITAL OF SOUTH DAKOTA AEDs \$5,268.00; BANNER ASSOCIATES INC Professional Services \$33,410.35; BARTELS CLEANING SERVICE Professional Services \$500.00; BORNS GROUP INC Inserts \$660.00; BOWES CONSTRUCTION Lakeview Industrial Park Improvements \$208,486.45; CARQUEST OF MADISON Fuel for Saws \$114.00; CENTRAL STATES WIRE PRODUCTS Wire \$1,916.90; CENTURYLINK QC Phone Bill \$90.57; COLES PETROLEUM PRODUCTS INC Fuel Report \$5,490.61; CORE & MAIN GP LLC SS Sleeve \$366.60; DAHL/KESTER Part-time Animal Control - January \$400.00; DAKOTA STATE UNIVERSITY Stay Informed Cards \$23.76; ENVIRONMENTAL PRODUCTS & ACCESS Back Mount \$79.22; F & M COOP OIL CO Forklift Propane \$24.90; FASTENAL CO Blade & Shop Supplies \$422.96; FIRST PRESBYTERIAN CHURCH Commercial Lighting Rebate - March 2024 \$456.00; HEIMAN INC Hose \$280.75; KESTELOOT EXCAVATION AND DIRT WORKS SERVICES Park Creek Walls Improv \$133,920.00; KLJ ENGINEERING LLC Egan Ave Reconstruction \$2,858.00; LAKE COUNTY TREASURER Fuel Report \$512.67; MADISON GROCERY STORE INC Cookies, Water - MSHA Training \$120.61; MADISON REGIONAL HEALTH Commercial Lighting Rebate/Upgrades \$1,140.00; MARCO TECHNOLOGIES CC Copier Lease \$285.47; O REILLY AUTOMOTIVE INC Fuse \$5.26; OFFICE PEEPS INC Paper \$58.33; OLINGER/SAVANNAH State of the City Address Supplies \$422.24; OPEN ACCESS TECHNOLOGY INT'L AMI Dues and Subscriptions \$6,617.75; PROSTROLLO AUTO PLAZA CO Bolts, Power Steering Fluid \$67.01; RUNNINGS SUPPLY INC Muffler, Couplers, Plugs \$427.40; SD DEPT OF REVENUE License Plate Renewal \$1.50; SDDOT-AIRPORT CONFERENCE Registration - Ryan Hegg \$100.00; STURDEVANTS MADISON INC Battery For Gen Plant \$1,051.09; VESSCO INC Slaker Sensors \$312.63.

Bills for Ratification – January 29, 2025

ACE HARDWARE Humidifier \$447.28; AMAZON CAPITAL SERVICES INC Cana Kits, Magazine/Brochure Display, Etc. \$2,179.32; APPEARA Mat Rentals \$222.35; AT & T MOBILITY *24 Service for Phones and Tablets \$5,632.45; BORNS GROUP INC Printing & Postage \$1,633.31; C&R FIRE SUPPRESSION DBA DVL FIRE AND SAFETY Recharge & Valve Rebuild Kit \$32.50; CARQUEST OF MADISON Service Chamber \$35.49; CIVIC PLUS LLC *24 Annual Fee - Agenda & Minutes Management \$4,042.50; COLES PETROLEUM PRODUCTS INC Mobilux - Waste Water Plant \$1,427.74; COLMAN BUILDING CENTER Lumber, Sheetrock \$376.95; COLUMN SOFTWARE PBC Publications \$505.88; ELITE CARD PAYMENT CENTER Credit Card Purchases (1/1/25 - 1/17/25) \$11,783.19; GREAT AMERICA FINANCIAL SVCS Finance & HR Copier Lease \$826.89; GREATER MADISON AREA CHAMBER *24 Bid Tax Funding – Oct-Dec 2024 \$3,008.50; HAWKINS INC Chemicals \$2,557.50; HILLYARD INC Toilet Paper \$283.99; J H LARSON ELECTRICAL CO Circuit Breaker, Connector \$166.06; JOSH'S TOOLS LLC Blow Gun Tips \$34.21; KLJ ENGINEERING LLC MDS - Reconstruct Apron & Taxilane - Design Phase \$4,200.00; LAKE VETERINARY CLINIC *24 Euthanasia - Canine \$213.50; LEIGHTON FAMILY FARMS Popcorn \$35.00; MADISON CENTRAL SCHOOL EDUCATIONAL

FOUNDATION *24 Round-Up Scholarships 2024 \$1,620.52; MADISON GROCERY STORE INC ASP Groceries \$114.18; MATHESON TRI GAS INC Parts \$307.85; MINNESOTA MUNICIPAL UTIL ASSN Job Training & Safety Program \$1,018.75; NORTHWESTERN ENERGY Utilities \$1,963.02; OFFICE PEEPS INC Sign Vinyl \$836.28; PITNEY BOWES INC Red Ink/Pad Replacement Kit \$107.88; PORTA PROS INC DBA A-1 PORTABLE TOILETS Toilet Rental \$158.00; PROCHEM DYNAMICS LLC Vacuum Bags \$26.22; PROSTROLLO AUTO PLAZA CO Thermostat & Seal \$25.59; QUALITY TELECOMMUNICATIONS CO Security Camera Monitors \$5,398.00; RUNNINGS SUPPLY INC Pressure Switch, Plugs - City Hall Air Compressor \$415.71; SAME DAY EXPRESS Delivery to Sioux Falls Public Health Lab \$20.00; SD MUNICIPAL LEAGUE Legislative Dinner \$60.00; SD PUBLIC HEALTH LABORATORY Water Samples \$146.00; SD WATER AND WASTEWATER ASSOC Annual Water Seminar - J. Tieman \$120.00; STRYKER *24 Single Electrode \$87.00; STUART IRBY TOOL CO Bid #966 Switchgear, HDPE Conduit & Sec Cable \$7,560.00; STURDEVANTS MADISON INC Spring Brake \$247.79; SYN-TECH SYSTEMS Fuel Pump Parts \$1,933.60; THE FLORAL SHOP Christmas Cactus \$51.00; TIMMER SUPPLY CO Foam Sealant \$24.73; TRAF 0 TERIA SYSTEM INC Parking Tickets \$401.28; TYLER TECHNOLOGIES INC Registration - Tyler Connect \$2,069.00; VICKMARK/CHRISTOPHER D Equipment Repairs \$281.25; WHEALY/MARK Spin Classes \$59.00; WINROW/KAYLEE Mileage - Trip to Grocery Store \$58.80.

Payroll Bills for Ratification – January 17, 2025

Health Pool of South Dakota \$52,146.25; IRS-EFTPS \$50,061.30; Office-Child Support Enforce \$835.38; SD Retirement System \$27,606.33; SD Retirement System \$10,275.00.

Motion by Commissioner Dybdahl, seconded by Commissioner Shaw to Award Bid No. 968 – 15KV Indoor Metalclad Switchgear and Control Panels – Green Substation. Motion carried unanimously. One bid was received from Harold K. Scholz Company in the amount of \$555,000, which came in under the engineer estimate of \$670,000.

Motion by Commissioner Cronin, seconded by Commissioner Dybdahl to Authorize Mayor to Sign Park Creek Walls Site 1, Site 2 and Site 3 Amendment No. 1 – Banner Associates. Motion carried unanimously. This amendment does not change the existing contract amount of \$628,414; instead, it adjusts to reflect actual expenses. The result is the contract limits for the individual items go up or down as needed, but the total remains at \$628,414.

Mike McGillivray, Parks Superintendent, provided an update on the fire at the City Armory. He contributed the minimal damage to the quick reporting and response time of the Fire Department.

City Administrator Jameson Berreth, and Director of Engineering and Community Development Ryan Hegg, provided an update on the Egan Avenue Reconstruction.

Berreth also provided a Strategic Plan update.

Lastly, Berreth presented the monthly Project updates.

Mayor Lindsay announced the following:

- Next Regular Commission Meeting – Tuesday, February 18, 2025 at 5:30 PM
- Committee Openings Available on the City Website

Motion by Commissioner Cronin, seconded by Commissioner Dybdahl to adjourn at 6:08 PM.

/s/Amy L Sad
Finance Officer

CITY OF MADISON
PERSONNEL
FEBRUARY 2025

NAME	EFFECTIVE DATE	PRESENT STATUS	RECOMMENDED STATUS	PRESENT RATE/SALARY	RECOMMENDED RATE/SALARY	POSITION
PLOOSTER, MICHAEL	1/31/2025		FT		\$120,515.20	UTILITIES DIRECTOR

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into as of the _____ day of _____, 2025, between The City of Madison, South Dakota (the "City") and _____ ("the Contractor"), of _____.

1. **Independent Contractor.** Subject to the terms and conditions of this Agreement, the City hereby engages the Contractor as an independent contractor to perform the services of Animal Control and the Contractor hereby accepts such engagement.
2. **Duties, Term, and Compensation.** The Contractor's duties shall be as set forth in the attached as Exhibit "A", which may be amended in writing from time to time or supplemented with subsequent estimates for services to be rendered by the Contractor and agreed to by the City, and which collectively are hereby incorporated by reference. This engagement shall commence upon execution of this Agreement and shall continue in full force effective February 22, 2025. Compensation for the services required and provided will be \$200 per month scheduled to provide services at that City of Madison Animal Control Shelter.
3. **Expenses.** Contractor shall be responsible for recording expenses incurred in performance of this Agreement and shall submit the same to City within 5 business days of incurring the same for reimbursement. City will reimburse Contractor within 30 days of submission. No expenses exceeding \$50.00 should be incurred by Contractor before discussing the same with City.
4. **Written Reports.** The City may request written reports of incidents or progress and Contractor will prepare and provide the same within 5 business days of the City's request.
5. **Confidentiality.** The Contractor acknowledges that during the engagement he/she will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by the City and/or used by the City in connection with the operation of its business including, without limitation, the City's business and product processes, methods, customer lists, accounts and procedures. The Contractor agrees that he/she will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this engagement with the City.
6. **Conflicts of Interest.** The Contractor represents that he/she is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Contractor and any third party. During the term of this agreement, the Contractor shall devote as much productive time, energy and abilities to the performance of his/her duties hereunder as is necessary to perform the required duties in a timely and productive manner. The Contractor is expressly free to perform services for other parties while performing services for the City.
7. **Termination.** The City or Independent Contractor may terminate this Agreement at any time by 10 calendar days' written notice to the Contractor. In addition, if the Contractor is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of the City, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the City may terminate this Agreement immediately.

8. **Independent Contractor.** This Agreement shall not render the Contractor an employee, partner, agent of, or joint ventures with the City for any purpose. The Contractor is and will remain an independent contractor in his relationship to the city. The City shall not be responsible for withholding taxes with respect to the Contractor's compensation hereunder. The Contractor shall have no claim against the City hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, retirement, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

9. **Choice of Law.** The laws of the state of South Dakota shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

10. **Headings.** Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.

11. **Waiver.** Waiver by one party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

12. **Assignment.** The Contractor shall not assign any of his/her rights under this Agreement, or delegate the performance of any of his duties hereunder, without the prior written consent of the City.

13. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.

14. **Unenforceability of Provisions.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above. The parties hereto agree that scans and electronic signatures shall be as effective as if originals.

CITY OF MADISON, SOUTH DAKOTA

By: _____
Its: _____ [title or position]

Independent Contractor

Attest: _____
Title: _____
Date: _____

Document Prepared By:
John M. Nelson
Nelson & Ericsson Law Office, Prof LLC
Attorneys at Law
PO Box 406, Madison, SD 57042
Phone No. (605) 256-4597

EASEMENT

For and in consideration of other good and valuable consideration and One and no/100 (\$1.00) Dollar, receipt of which is hereby acknowledged, CITY OF MADISON, a political subdivision of the State of South Dakota, as Grantors, of PO Box 308, Madison, South Dakota, hereinafter referred to as "City", do hereby grant unto SOUTH DAKOTA BOARD OF REGENTS, as Grantees, of 306 East Capitol Ave., Suite 200, Pierre, SD 57501, hereinafter referred to as "DSU," a perpetual and permanent right, privilege and easement over, through and across the twenty five foot area containing $\pm 5,810$ square feet or ± 0.13 acres, shown in Exhibit A, of the real property of the "City", described as:

Tract A of Fallang's Addition in Lot One (1) of County Auditor's Subdivision of the Northeast Quarter (NE 1/4) of Section Six (6), Township One Hundred Six (106) North, Range Fifty Two (52), West of the 5th PM, Lake County, South Dakota;

It is further understood and agreed by and between the parties that the purpose of this easement is to allow access, ingress and egress, and drainage purposes, and shall inure to the benefit of DSU, their administrators, executors, heirs and assigns as to the real property surrounding and adjacent to Tract A of Fallang's Addition in Lot One (1) of County Auditor's Subdivision to Madison, South Dakota.

That this document shall benefit and be binding on the parties by their signing, their agents, employees, administrators, executors, heirs and assigns.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals this _____ day of _____, 2024.

CITY OF MADISON

Mayor

ATTEST:

Finance Officer

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF LAKE)

On this the ____ day of _____, 2024, before me, the undersigned officer personally appeared Roy Lindsay and _____, who acknowledged themselves to be the Mayor and Finance Officer respectively, of the City of Madison, a municipal corporation, and that they, as such Mayor and Finance Office being so authorized to do, executed the foregoing instrument by signing the name of the City of Madison by themselves as Mayor and Finance Officer thereof.

In witness whereof I hereunto set my hand and official seal.

Notary Public, South Dakota
My commission expires:

José-Marie Griffiths, President

Stacy Krusemark, VP Business & Admin Services

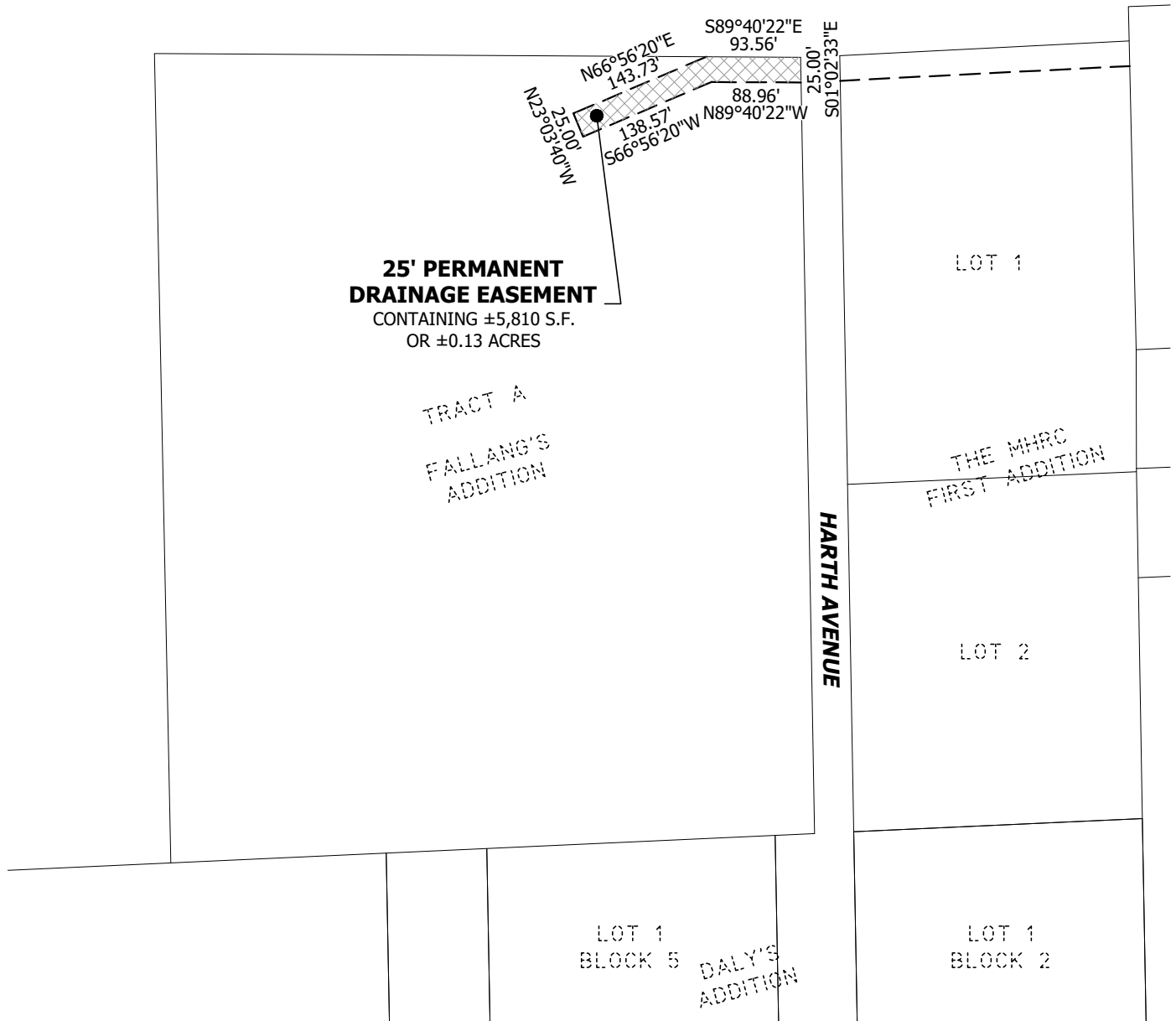
In witness whereof I hereunto set my hand and official seal.

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EXHIBIT A

SHOWING A PERMANENT DRAINAGE EASEMENT IN TRACT A OF FALLANG'S ADDITION IN LOT 1 OF COUNTY AUDITOR'S SUBDIVISION OF THE NE 1/4, SECTION 6, T106N, R52W, 5TH P.M. IN LAKE COUNTY, SOUTH DAKOTA.

PERMANENT DRAINAGE EASEMENT



NOTES:

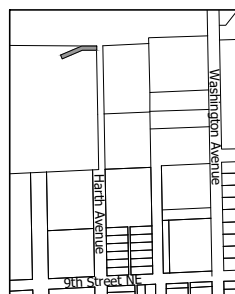
1. BASIS OF BEARINGS FOR THIS EASEMENT IS UTM ZONE 14 NORTH.
2. SURVEY WAS DONE WITHOUT BENEFIT OF A TITLE SEARCH.

LEGEND:

FOUND 5/8" REBAR

EASEMENT

PREVIOUSLY PLATTED DIMENSION (100.0')



KEY MAP



PREPARED BY:

STOCKWELL ENGINEERS, INC.
801 N Phillips Avenue, Suite 100
Sioux Falls, SD
Phone: 605-338-6668



0 40 80 160



Banner Associates, Inc.
2307 W 57th St, Ste 102
Sioux Falls, SD 57108
Tel 605.692.6342
Toll Free 855.323.6342
www.bannerassociates.com

January 1, 2025

Mr. Ryan Hegg
City of Madison
116 W Center St
Madison, SD 57042

RE: City of Madison ARPA Projects – Segments 2-6 – Engineering Services Agreement
Amendment No. 1 Request

Dear Mr. Hegg

This letter is presented as a request by Banner Associates to modify the engineering contract for the above referenced project, dated November 7, 2022. The project design and bid services for the Segment 2 – 6 projects have been completed and fees are below the original proposed limiting fee. Construction services are ongoing, and will continue throughout the 2025 construction season. Banner is requesting to restructure the contract limiting fees by reducing the design and bid services contract limiting fee and increase the construction services limiting fee to result in a no value change of the contract. Below is an outline of the requested contract modifications.

Contract Requested Fee Breakdown:

- A. Owner shall pay Engineer for **Design Engineering and Bidding Services** the aggregate limiting fee as generally broken out as follows:
1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services and Engineer's consultants' charges, if any.
 2. Engineer's Standard Hourly Rates are attached as Appendix 1.
 3. **Segment 2** - compensation for services and reimbursable expenses is estimated to be ~~\$126,948~~ **\$77,997.14**.
 4. **Segment 3** – compensation for services and reimbursable expenses is estimated to be ~~\$179,471~~ **\$170,823.70**.
 5. **Segment 4** – compensation for services and reimbursable expenses is estimated to be ~~\$64,313~~ **\$64,237.45**.
 6. **Segment 5** - compensation for services and reimbursable expenses is estimated to be ~~\$424,192~~ **\$337,611.99**.
 7. **Segment 6** - compensation for services and reimbursable expenses is estimated to be ~~\$52,851~~ **\$66,642.40**.
 8. Total aggregate limiting fee for Segments 2 thru 6 is ~~\$847,775.00~~ **\$717,312.68**. Engineer may alter the distribution of compensation between segments and phases of the work to be consistent with services actually rendered but shall not exceed the total estimated compensation amount unless approved in writing by the owner.



B. Owner shall pay Engineer for **Construction Services** as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services and Engineer's consultants' charges, if any.
2. Engineer's Standard Hourly Rates are attached as Appendix 1.
3. **Segment 2** - compensation for services and reimbursable expenses is estimated to be ~~\$163,219~~ **\$184,225.14**.
4. **Segment 3** - compensation for services and reimbursable expenses is estimated to be ~~\$230,749~~ **\$310,732.82**.
5. **Segment 4** - compensation for services and reimbursable expenses is estimated to be ~~\$82,688~~ **\$62,906.36**.
6. **Segment 5** - compensation for services and reimbursable expenses is estimated to be ~~\$545,389~~ **\$609,858.19**.
7. **Segment 6** - compensation for services and reimbursable expenses is estimated to be ~~\$61,809~~ **\$43,593.81**.
8. Total aggregate limiting fee for Segments 2 thru 6 is ~~\$1,083,854.00~~ **\$1,214,316.32**. Engineer may alter the distribution of compensation between segments and phases of the work to be consistent with services actually rendered but shall not exceed the total estimated compensation amount unless approved in writing by the owner.

Amendment Summary

Based on the above modifications, Banner requests the contract limiting fees be adjusted to complete the remaining work on the project. If additional tasks are required which are outside the scope of services, they will be considered additional services and payment shall be based upon direct labor and expenses at fixed rates. Additional services will not occur unless we receive written authorization to proceed. The basis for the estimate of costs for professional services is included in the attached "Schedule of Labor Rates and Expenses - 2024".

The requested modifications are summarized as follows:

Design Engineering & Bidding Services	(\$130,462.32)
Construction Services	<u>\$130,462.32</u>
Total = \$0	

If this amendment meets your approval, please sign and date the acceptance block below and return one copy to Banner. If you have any questions, or need any additional information, please feel free to call me at 855-323-6342 or email at westonb@bannerassociates.com.



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Sincerely,

Pat Carey, PE
Senior Vice President
Banner Associates, Inc.

Weston J. Blasius, PE
Project Manager
Banner Associates, Inc.

Attachments: Schedule of Labor Rates and Expenses – 2024

ACKNOWLEDGMENT OF ACCEPTANCE

Accepted this _____ day of _____, 2025

For: City of Madison, SD

By: _____

Title: _____



SCHEDULE OF LABOR RATES AND EXPENSES

January 2024

Administrative	\$65.00 to \$185.00/Hour
Surveying/Geomatics	\$75.00 to \$170.00/Hour
Technicians	\$75.00 to \$130.00/Hour
Environmental Scientist	\$75.00 to \$175.00/Hour
Staff Engineer	\$95.00 to \$120.00/Hour
Project Engineer	\$110.00 to \$175.00/Hour
Project Manager	\$140.00 to \$275.00/Hour

1. Meals at State Rates.
2. Lodging at actual cost.
3. Reimbursables:

Mileage	\$0.73/Mile
Photocopy	0.05/Copy
Black & White 11x17 Laser Prints	0.10/Sheet
4. All other direct project expenses at actual cost of materials.

Rates are subject to change annually.



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City of Madison Memorandum

To: Mayor and City Commission
From: Jameson Berreth, City Administrator
Subject: SD Open Meeting Laws & Conflict of Interest
Date: 2/13/2025

Governor Rhoden recently signed into law SB 74 which requires review of open meeting laws annually by political subdivisions of the state, such as municipalities. This was unanimously approved by the legislature and supported by cities and other entities.

While the legislation has not yet gone into effect, City of Madison staff support the intent of the legislation and felt it worthwhile to hold a review of open meeting law. Additionally, this memorandum includes an overview of conflicts of interest as it relates to elected officials as a relevant topic that should be reviewed periodically. Both topics are also addressed in City Commission Policies & Procedures adopted in April 2024 in sections 3.4 and 4.5.

In addition to the information summarized in this document, an open meetings law brochure from the SD Attorney General's Office is also included in the 2/18/25 agenda packet.

What is Open Meeting Law?

It is the principle that the public is entitled to a seat at the table. All discussions of a governing body should be open to the public apart from discussions held for specific purposes outlined in statute. Law requires agendas of meetings to be posted at least 24 hours in advance whenever a quorum of the body intends to meet.

What constitutes a meeting?

There are many situations where open meetings are required. In general, it's whenever at least a quorum of members are present or participating in any communication related to City business.

- Regularly scheduled meetings
- Special meetings
- Zoom or other teleconference meetings
- Emails
- A quorum of members at a sporting event discussing city operations

Who does this apply to?

This affects voting members and not staff. This means City staff can send correspondence to the City Commission, just like any member of the public can do so, as he/she is not a voting member. The mayor and commissioners cannot send correspondence to the rest of the group as they are voting members.

Can we close a meeting to the public to speak privately amongst ourselves?

Yes, a body can meet in executive session privately for specific purposes and topics specified in state statute. See SDCL 1-25-2 below for complete information.

- (1) Employee qualifications and performance (not contractors)



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- (2) Discipline of a K12 student or eligibility in SDHSAA activities
- (3) Consulting with legal counsel on litigation or contractual matters
- (4) Preparing for or holding union negotiations
- (5) Marketing or pricing strategies for a business owned by a governmental entity
- (6) Sensitive plans for emergency response, cyber security, vulnerability assessments, etc.

However, **NO** action can be taken in executive session. State statute allows for executive session for discussion purposes only, and all action must take place outside of executive session in an open meeting.

What happens if we violate open meeting law?

Action taken during a meeting that is not correctly noticed or not open could be declared null and void. The most likely issue may be if a majority of members end up discussing matters during an unplanned meeting, or they email a quorum of other members. If this happens, the board should disclose the communication. For example, include the email(s) where the violation occurred on an agenda for public awareness.

Severe instances may result in (a) Class 2 misdemeanor punishable by up to 30 days in jail and/or a \$500 fine or (b) be referred to the Open Meeting Commission which has the authority to reprimand.

Authorized purposes of executive session

1-25-2. Executive or closed meetings--Purposes--Authorization--Violation as misdemeanor.

Executive or closed meetings may be held for the sole purposes of:

- (1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;
- (2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;
- (3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;
- (4) Preparing for contract negotiations or negotiating with employees or employee representatives;
- (5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or
- (6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:
 - (a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;
 - (b) Emergency management or response;



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- (c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;
- (d) Cyber security plans, computer, communications network schema, passwords, or user identification names;
- (e) Guard schedules;
- (f) Lock combinations;
- (g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and
- (h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a Class 2 misdemeanor.



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What is a Conflict of Interest?

A conflict of interest occurs when a member of a voting body is deciding on an item from which he or she may receive benefit or harm in some way. Conflicts of interest may be very common and do not mean that the person should not be on the body, only that they should not be using their elected or appointed position to impact the decision.

What are the types of conflict of interest?

Conflicts of interest can be grouped into four categories.

Direct Pecuniary Interest – Voting on a matter benefitting the voting member's own property or affording a direct financial gain to the voter.

Indirect Pecuniary Interest – Voting on a matter that financially benefits one closely tied to the voting member, such as an employer, or family member.

Direct Personal Interest – Voting on a matter that benefits the voting member, a blood relative, or close friend in a non-financial way but in a matter of great importance.

Indirect Personal Interest – Voting on a matter in which an individual's judgment may be affected because of membership in some organization and a desire to help that organization further its policies.

How is a conflict determined?

Individuals should understand the types of conflict of interest above and, of their own accord, recognize their own conflicts and disclose any conflict that may exist. This disclosure should be stated to the full board, on the record, and made prior to the start of discussion or action on that item. This allows all parties to inquire into the conflict or make an objection if desired.

After disclosure, the type of conflict impacts how to proceed. If the member has a *direct pecuniary* conflict, they are automatically disqualified from voting. (SDCL 6-1-17) For all other types of conflicts, the member decides for themselves whether the conflict disqualifies them. If they believe it does, they abstain from that item. If the member does not believe so, they may proceed with discussion and voting. However, if the board does not agree that the person can act unbiased, they may vote whether the conflict of interest should prohibit that member from voting. It requires a two thirds vote to disqualify a member for a conflict of interest.

What happens if I am disqualified due to a conflict of interest?

A member disqualified for a conflict of interest should recuse themselves from the discussion and abstain from the vote. If they would like to speak to a matter in a capacity other than their elected or appointed position, it is appropriate to state such directly and, if practical, move to a position for the public rather than the voting body.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney, and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC MEMBERS. The South Dakota Open Meeting Commission shall be comprised of five state's attorneys appointed by the attorney general. Each commissioner shall serve at the pleasure of the attorney general. A chair of the commission shall be chosen annually from the membership of the commission by a majority of its members.

1-25-12. DEFINITIONS. Terms used in this chapter mean:

(1) "Political subdivision," any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other local government entity that is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law;

(2) "Public body," any political subdivision and the state;

(3) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference;

(4) "Teleconference," information exchanged by any audio, video, or electronic medium, including the internet;

(5) "State," each board, commission,

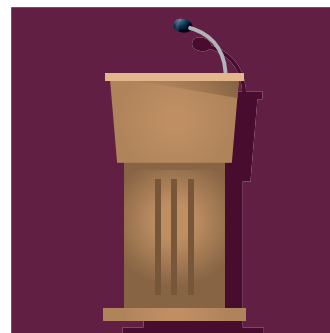
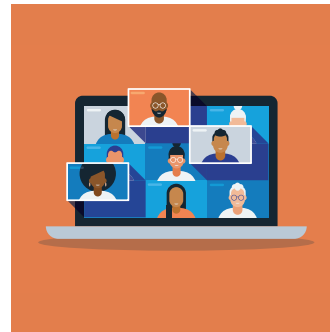
department, or agency of the State of South Dakota. The term, state, does not include the Legislature.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.



Conducting the Public's Business in Public

A guide to South Dakota's Open Meetings Laws
(Revised 2023)

Prepared by:
S.D. Attorney General's Office
in partnership with the
S.D. NewsMedia Association

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Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A: South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A: The open meetings laws apply to all public bodies "of the state and its political subdivisions." SDCL 1-25-1. This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(1). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. In addition,

for teleconferences where less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;

(2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or

(6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer, communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations;

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and

(h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made

at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

9-34-19. EXECUTIVE SESSIONS (MUNICIPAL AND COUNTIES). Any documentary material or data compiled or received by a municipal corporation, county, or an economic development corporation receiving municipal or county funds, for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the operation of such business, is not a public record. Any discussion or consideration of such trade secrets or commercial or financial information by a municipal corporation or county may be done in executive session closed to the public.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

PERTINENT S.D. OPEN MEETINGS STATUTES
(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. The official meetings of the state and its political subdivisions are open to the public unless a specific law is cited by the state or the political subdivision to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the political subdivision may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum shall meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and shall contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment but not so limited as to provide for no public comment.

Public comment is not required at official meetings held solely for the purpose of meeting in executive session, an inauguration, swearing in of newly elected officials, or presentation of an annual report to the governing body regardless of whether or not such activity takes place at the time and place usually reserved for a regularly scheduled meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meet solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a

website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet.

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of "local news media" in SDCL ch. 1-25. "News media" is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that "local news media" is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. A public comment period is not required for meetings held solely for the purpose of executive session.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student's participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel

about proposed or pending litigation or contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. "pursuant to SDCL 1-25-2(3)." Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state "motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter;" or "motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel."

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken. Board members could be held personally liable for the results of an official vote

taken illegally during an executive session. For example, a contract approved only during an executive session could be found void and the board members could be required to repay any public funds spent under the contract.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void. It could even result in personal liability for members of the governing body involved, depending upon the action taken.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status

of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

Q: WHAT DOES THE TERM "SOVEREIGN POWER" MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See *In re Yankton County Commission, Open Meetings Commission Decision # 20-03*, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body. Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute. For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A: The definition of an "official meeting" in SDCL 1-25-12(3) references teleconferences. The definition of a "teleconference" in SDCL 1-25-12(4) includes the exchange of information via the internet or any other electronic medium. The analysis of these two definitions leads to the conclusion that email discussions that include a quorum of a public body and which discuss the official business of that body could be considered "meetings" for purposes of the open meetings laws. Email participation in scheduling or similar activity would not, under this analysis, constitute a public meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days). These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.



Discover the Unexpected

Finance Update

January - 2025



• NOTES

- January update to include year end details for 2024.
- Work has started on our digital budget book.
- QR Code for Police Parking Tickets is fully operational
- For 2025 Year End Financials will not be provided until February of 2026. The finance departments accepts invoices for the prior year through January 15th. Additional activity also comes in impacting the previous year.



2024 Revenue Adjustments

- December Revenue (includes debt issuance) received in January (prior year posted):
 - Fund 101 / General: \$ 603,000.00
 - Fund 211 / Lodging & Entertainment Tax: \$ 2,157.12
 - Fund 213 / 2nd Cent Sales Tax: \$ 50,102.41
 - Fund 517 / Creek Walls: \$ 559,315.91 (FEMA)
 - Fund 602 / Water: \$ 801,320.00 (SRF)
 - Fund 604 / Sewer: \$ 96,330.00 (SRF)
- Long term debt in the amount of \$ 1,315,801.00 not issued.
- Transfers in never made: \$ 13,836,039.00 (waiting on 2023 audit finding before proceeding to negate unnecessary entries as recommended by the auditors).

	176	216	(266)	180
	394	(500)	(599)	(184)
es	156	283	276	(1,411)
ons	5,862	4,186	14,35	
S,				
ss, net				



• Cash on Hand

- General Cash - \$13.2 million total
 - Investments – \$5.89 million
 - Checking - \$6.34 million
 - Money Market - \$686 thousand
 - Other - \$286 thousand
- Restricted Cash - \$624 thousand

● REVENUE GUIDELINES

Fund	Description	Revenue 2025				% of Budget
		Budget	January	YTD		
101	General Fund	\$ 8,485,696	\$ 244,894	\$ 244,894		2.9%
211	Lodging & Entertainment Tax	\$ 350,000	\$ 20,933	\$ 20,933		6.0%
213	2nd Cent Sales Tax	\$ 2,431,943	\$ 218,982	\$ 218,982		9.0%
214	Business Improvement District Bid	\$ 53,500	\$ 6,986	\$ 6,986		13.1%
220	Special Maintenance Fee	\$ 251,847	\$ -	\$ -		0.0%
303	Tax Increment District #2	\$ 60,000	\$ -	\$ -		0.0%
307	Tax Increment District #3	\$ -	\$ -	\$ -		0.0%
517	Creek - Bridge Mitigation	\$ 3,593,704	\$ -	\$ -		0.0%
518	City Hall Construction	\$ -	\$ -	\$ -		0.0%
519	Electric Transformer Upgrade	\$ -	\$ -	\$ -		0.0%
602	Water Fund	\$ 7,414,365	\$ 165,774	\$ 165,774		2.2%
603	Electric Fund	\$ 11,612,895	\$ 1,017,331	\$ 1,017,331		8.8%
604	Sewer Fund	\$ 4,151,276	\$ 158,196	\$ 158,196		3.8%
612	Solid Waste Fund	\$ 512,726	\$ 41,637	\$ 41,637		8.1%
620	Community Center	\$ 1,033,500	\$ 64,953	\$ 64,953		6.3%
621	After School / Youth Program	\$ 181,424	\$ 7,269	\$ 7,269		4.0%
TOTAL		\$ 40,132,876	\$ 1,946,953	\$ 1,946,953		4.9%

● EXPENDITURE GUIDELINES

Fund	Description	Expense 2025				% of Budgeted
		Budget	January	YTD		
101	General Fund	\$ 12,007,399	\$ 1,398,482	\$ 1,398,482		11.6%
211	Lodging & Entertainment Tax	\$ 350,000	\$ 35,000	\$ 35,000		10.0%
213	2nd Cent Sales Tax	\$ 175,000	\$ -	\$ -		0.0%
214	Business Improvement District Bid	\$ 13,375	\$ -	\$ -		0.0%
220	Special Maintenance Fee	\$ 24,000	\$ -	\$ -		0.0%
303	Tax Increment District #2	\$ 60,000	\$ -	\$ -		0.0%
307	Tax Increment District #3	\$ -	\$ -	\$ -		0.0%
517	Creek - Bridge Mitigation	\$ 5,360,401	\$ -	\$ -		0.0%
518	City Hall Construction	\$ 144,467	\$ 981	\$ 981		0.7%
519	Electric Transformer Upgrade	\$ -	\$ -	\$ -		0.0%
602	Water Fund	\$ 6,030,798	\$ 262,472	\$ 262,472		4.4%
603	Electric Fund	\$ 21,520,643	\$ (52,297)	\$ (52,297)		-0.2%
604	Sewer Fund	\$ 2,870,248	\$ 224,616	\$ 224,616		7.8%
612	Solid Waste Fund	\$ 526,556	\$ 27,014	\$ 27,014		5.1%
620	Community Center	\$ 1,032,626	\$ 70,315	\$ 70,315		6.8%
621	After School / Youth Program	\$ 178,724	\$ 11,197	\$ 11,197		6.3%
TOTAL		\$ 50,294,237	\$ 1,977,782	\$ 1,977,782		3.9%

● BY FUND – JANUARY 2025

Profit or Loss January 2025				
Fund	Description	MTD Revenue	MTD Expense	MTD Profit or Loss
101	General Fund	\$ 244,894	\$ 1,398,482	\$ (1,153,589)
211	Lodging & Entertainment Tax	\$ 20,933	\$ 35,000	\$ (14,067)
213	2nd Cent Sales Tax	\$ 218,982	\$ -	\$ 218,982
214	Business Improvement District Bid	\$ 6,986	\$ -	\$ 6,986
220	Special Maintenance Fee	\$ -	\$ -	\$ -
303	Tax Increment District #2	\$ -	\$ -	\$ -
307	Tax Increment District #3	\$ -	\$ -	\$ -
517	Creek - Bridge Mitigation	\$ -	\$ -	\$ -
518	City Hall Construction	\$ -	\$ 981	\$ (981)
519	Electric Transformer Upgrade	\$ -	\$ -	\$ -
602	Water Fund	\$ 165,774	\$ 262,472	\$ (96,698)
603	Electric Fund	\$ 1,017,331	\$ (52,297)	\$ 1,069,627
604	Sewer Fund	\$ 158,196	\$ 224,616	\$ (66,420)
612	Solid Waste Fund	\$ 41,637	\$ 27,014	\$ 14,623
620	Community Center	\$ 64,953	\$ 70,315	\$ (5,363)
621	After School / Youth Program	\$ 7,269	\$ 11,197	\$ (3,928)
TOTAL		\$ 1,946,953	\$ 1,977,782	\$ (30,829)

● BY FUND – YTD 2025

Profit or Loss 2025				
Fund	Description	YTD Revenue	YTD Expense	YTD Profit or Loss
101	General Fund	\$ 244,894	\$ 1,398,482	\$ (1,153,589)
211	Lodging & Entertainment Tax	\$ 20,933	\$ 35,000	\$ (14,067)
213	2nd Cent Sales Tax	\$ 218,982	\$ -	\$ 218,982
214	Business Improvement District Bid	\$ 6,986	\$ -	\$ 6,986
220	Special Maintenance Fee	\$ -	\$ -	\$ -
303	Tax Increment District #2	\$ -	\$ -	\$ -
307	Tax Increment District #3	\$ -	\$ -	\$ -
517	Creek - Bridge Mitigation	\$ -	\$ -	\$ -
518	City Hall Construction	\$ -	\$ 981	\$ (981)
519	Electric Transformer Upgrade	\$ -	\$ -	\$ -
602	Water Fund	\$ 165,774	\$ 262,472	\$ (96,698)
603	Electric Fund	\$ 1,017,331	\$ (52,297)	\$ 1,069,627
604	Sewer Fund	\$ 158,196	\$ 224,616	\$ (66,420)
612	Solid Waste Fund	\$ 41,637	\$ 27,014	\$ 14,623
620	Community Center	\$ 64,953	\$ 70,315	\$ (5,363)
621	After School / Youth Program	\$ 7,269	\$ 11,197	\$ (3,928)
TOTAL		\$ 1,946,953	\$ 1,977,782	\$ (30,829)

● Sales Tax

January 2025

\$526,287

+11.60 %

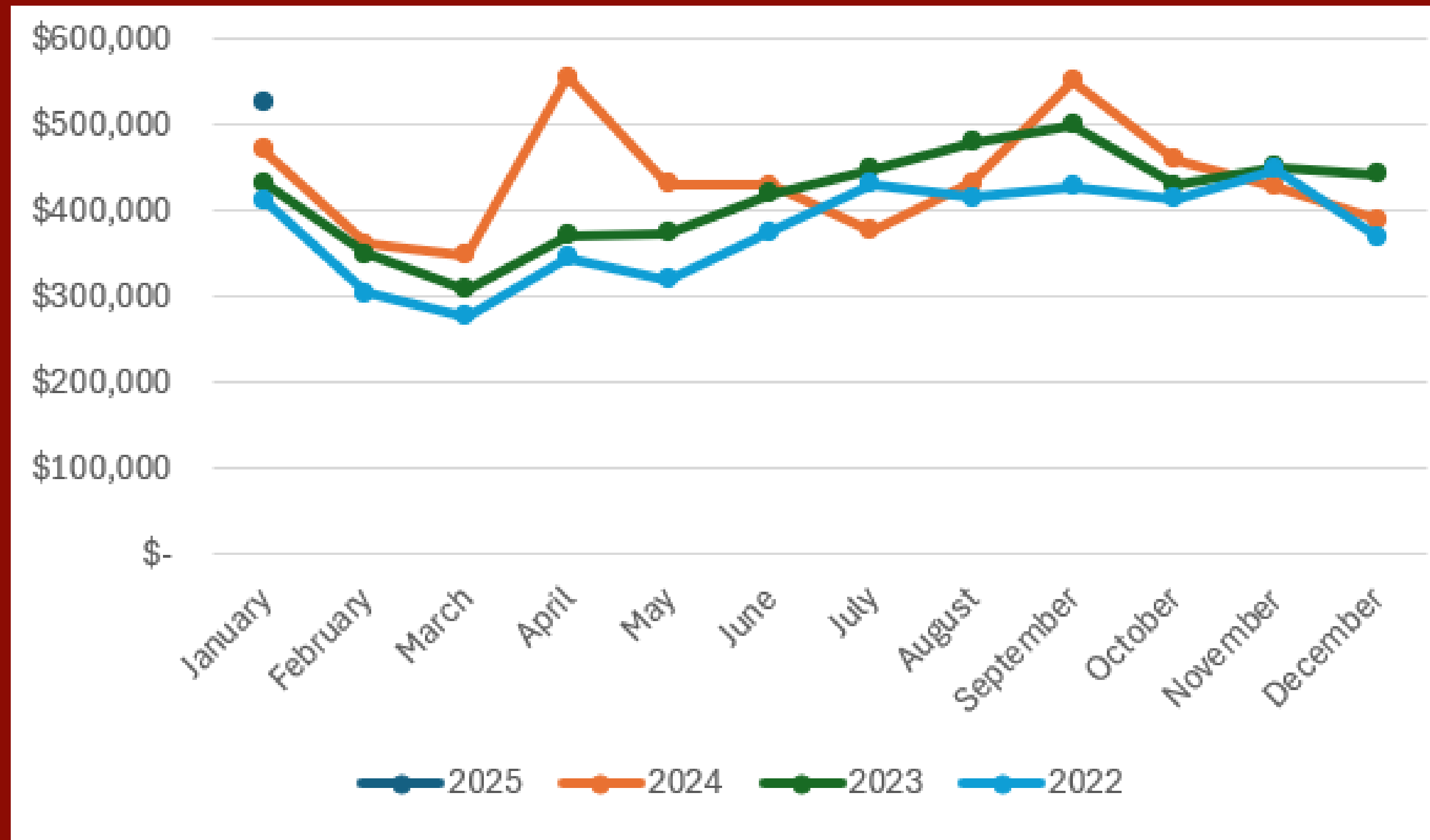
2025 YTD

\$526,287

+11.60 %

Sales Tax					
	% increase	2025	2024	2023	2022
January	11.60%	\$ 526,287	\$ 471,571	\$ 432,730	\$ 413,511
February			\$ 361,999	\$ 350,238	\$ 303,973
March			\$ 347,846	\$ 308,016	\$ 277,186
April			\$ 556,545	\$ 371,022	\$ 346,336
May			\$ 431,766	\$ 374,131	\$ 320,367
June			\$ 429,961	\$ 420,501	\$ 376,298
July			\$ 376,990	\$ 448,323	\$ 431,753
August			\$ 433,097	\$ 480,355	\$ 416,258
September			\$ 551,973	\$ 499,767	\$ 428,928
October			\$ 459,462	\$ 430,674	\$ 414,971
November			\$ 428,143	\$ 451,510	\$ 448,293
December			\$ 389,624	\$ 442,683	\$ 370,263
Total	11.60%	\$ 526,287	\$ 5,238,976	\$ 5,009,950	\$ 4,548,137

● Sales Tax Graph





Thank You!



The amounts listed below are transactions that have impacted revenue or expense.
Entries are either not posted, unspent, or unbudgeted.
Based on financial information provided in January 2025 meeting for December 2024. (subject to change)

REVENUE		Revenue Budget	Variance Description	Amount	% of Budget Remaining	Notes
Fund 101 General	\$	18,174,689	Transfers In	\$ 5,256,039	32.53%	Not posted yet.
			Debt Proceeds	\$ 1,315,801		Didn't use the full amount budgeted.
			Reimbursement CY	\$ (3,331,471)		LAIC: Conduit
			Bond Proceeds	\$ (2,000,000)		Cash Strapped
						Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained
			Change in Cash	\$ 4,600,232		(not a revenue item)
			Interest to be Allocated	\$ (326,731)		Need to allocate funds to other Funds
			Airport Sale of Fuel	\$ (203,447)		Sales revenue exceeded budget
			Dec Rev Rec'd in January	\$ 601,431		Dec Revenue rec'd in January - effective dated to Dec 2024 - not reflected in the prior financials
Fund 213 2nd Cent	\$	4,375,000		\$ 5,911,854	45.74%	
			Change in Cash	\$ 1,840,510		Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained
			Interest Earned	\$ 160,740		(not a revenue item)
Fund 220 Special Maintenace Fee	\$	360,000		\$ 2,001,250	30.04%	
			Change in Cash	\$ 108,153		Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained
						(not a revenue item)
Fund 303 Tax Increment District # 2	\$	60,000	General Property Tax	\$ 14,721	24.54%	Revenue came in under budget.
Fund 517 Creek Walls	\$	3,980,400	Debt Issued	\$ 1,011,053	40.40%	Didn't use full amount budgeted.
						Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained
			Change in Cash	\$ 597,060		(not a revenue item)
Fund 518 City Hall	\$	6,000,000		\$ 1,608,113	100.00%	
			Transfers In	\$ 6,000,000		Not posted yet.

Fund 519	\$	2,400,000	Transfers In	\$	2,400,000	100.00%	Not posted yet.
Electric Transformers							
Fund 602	\$	11,310,839	Debt Issued	\$	6,423,737		Didn't use full amount budgeted.
Water			Change in Cash	\$	645,499		Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained (not a revenue item)
			Grants Received	\$	(3,177,900)		Not Budgeted
				\$	3,891,336	34.40%	
Fund 603	\$	18,606,027	Long Term Debt	\$	4,900,000		Didn't use budgeted amount.
Electric			Metered Electric Sales	\$	859,990		Revenue less than projected - year end adjustment to come.
			Change in Cash	\$	472,909		Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained (not a revenue item)
			Reimbursement - CY	\$	764,475		Reimbursement less than budgeted. Budget amount seems higher than would be anticipated.
				\$	6,997,374	37.61%	
Fund 604	\$	7,367,757	Long Term Debt	\$	3,065,787		Didn't use budgeted amount.
Sewer			Change in Cash	\$	590,218		Used in the budgeting process only - balancing entry/ designates the net cash to be applied or retained (not a revenue item)
			Interest	\$	54,256		Need to allocate interest from Fund 101 to other Funds
			Grant	\$	(1,293,531)		Funds received - not budgeted.
				\$	2,416,730	32.80%	
Fund 620	\$	1,000,397	Transfers In	\$	180,000	17.99%	Remember that grant funds went to Fund 621!!!

CC

EXPENSE	Expense Budget	Variance	Amount	% of Budget Remaining	Notes	
Fund 101	\$	18,174,689	Transfers Out	\$	6,180,000	Not posted yet.
General			LAIC Expenses	\$	(3,331,471)	Reimbursed from LAIC ex our 20%
			Improvements	\$	151,770	Funds budgeted but not fully spent.
			Fuel for Sale	\$	(102,029)	Overspent fuel budget (also received extra revenue).

			Contingency	\$	450,000		Budgeted but not used.
			Snow & Ice Removal	\$	91,171		Underspent as a whole
				\$	3,439,441	18.92%	
Fund 211	\$	351,730	Transfers Out	\$	105,000	29.85%	Not posted yet.
General							
Fund 220	\$	360,000	Improvements	\$	59,656	16.57%	Funds budgeted but not fully spent.
Special Maintenace Fee							
Fund 213	\$	4,375,000	Transfers Out	\$	4,200,000	96.00%	Not posted yet.
2nd Cent							
Fund 517	\$	3,980,400	Improvements	\$	100,089		Funds budgeted but not fully spent.
Creek Walls			Professional Services	\$	790,329		Funds budgeted but not fully spent.
				\$	890,418	22.37%	
			Improvements, Capital				
			Impr, Professional				
Fund 518	\$	6,000,000	Services	\$	2,316,533	38.61%	This is the amount OVER the budgeted expense! We spent 38.61% more.
City Hall							
Fund 519	\$	2,400,000	Improvements	\$	2,400,000	100.00%	There were no expenditures in 2024 - completely unspent.
Electric Transformers							
Fund 602	\$	11,310,839	Transfers Out	\$	136,500		Not posted yet.
Water			Improvements	\$	1,396,216		Funds budgeted but not spent.
				\$	1,532,716	13.55%	
Fund 603	\$	18,606,027	Transfers Out	\$	3,096,564		Not posted yet.
Electric			Supplies & Materials Tire	\$	941,000		Funds budgeted but not spent.
			Improvements	\$	800,500		Funds budgeted but not fully spent.
			Inventory/Supplies	\$	489,700		Net of Inventory/Supplies.

			\$	5,327,764	28.63%	
Fund 604	\$	7,367,757	Improvements	\$	1,688,155	Funds budgeted but not fully spent.
Sewer			Transfers Out	\$	117,975	Not posted yet.
				\$	1,806,130	24.51%