

**AGENDA
CITY OF MILLER
MONDAY, MARCH 15, 2021
6:00 P.M.**

The City of Miller is an equal opportunity employer.

Call to Order

Pledge of Allegiance

Approval of Agenda

Approval of Minutespgs. 1 - 4

Executive Session

Personnel Matters Pursuant to SDCL 1-25-2(1)

Public Input

New Business

1. Sara DeHaai -- Swim Club
2. Bill & Nancy Lewellen -- Platpgs. 5 - 6
3. Dakota Energy Letter
4. Election Worker Pay
5. Joint Powers Agreement -- NWEpgs. 7 - 16
6. Ordinance #717 -- Joint Powers Agreement.....pg. 17
7. Resolution 2021-5 -- Hazard Mitigation Plan.....pg. 18
8. District Meeting.....pg. 19
9. Write Off Bad Debt \$1,551.15 -- Deceased individual
10. Hire Summer Help
11. Building Permit: Dale & Tammy Lichty -- Carport; Tim & Diane Goetz -- replace shed
12. Removal Permit: Don Mardian -- Trailer House
13. Appoint Zoning Administrator (Building Permits)

Unfinished Business

1. Electric Superintendent/Lineman Positions

Approval of Bills

Adjourn

**CITY OF MILLER
CITY COUNCIL MEETING
MARCH 1, 2021**

The City of Miller is an equal opportunity employer

The City Council met in regular session at city hall at 7:00 p.m. on Monday, March 1, 2021.

MEMBERS PRESENT: Mayor Ron Blachford, Aldermen: Jim Odegaard, Tony Rangel, Bob Steers, Jeff Swartz, Joe Zeller and Alderwoman Tammy Lichty.

CALL TO ORDER: Mayor Blachford called the meeting to order.

Pledge of Allegiance was said by all present.

AGENDA: Motion by Alderman Odegaard, seconded by Alderwoman Lichty to approve the agenda. All members voted aye. Motion carried.

MINUTES: Motion by Alderman Rangel, seconded by Alderman Zeller to approve the minutes for the regular meeting held on February 16, 2021. All members voted aye. Motion carried.

PUBLIC INPUT

Mike Beaner spoke about the recent survey sent out to customers regarding cloud-based software. He would like to see it rewritten with what the cost will be to customers in order to get a fair input.

Rodney and Mary Jo Gortmaker were present to voice their concerns about the proposed firearms ordinance. They would like it to be more specific as to what constitutes a firearm. Alderman Rangel clarified that the city's firearms ordinance had been inadvertently excluded when the Code of Ordinances was recodified. It was suggested that the ordinance be reestablished.

Barb Johnson has been following along with the city council meetings in *The Miller Press* and has concerns about the issues facing the city police department. She believes the city issues are a personnel matter based on one individual's complaints and should not be lumped together with the subject of countywide law enforcement. She went on to express that contracting law enforcement services with the county could potentially cost the city and the county more. She is confident that the city council and county commission will perform their due diligence to the best of their ability and come to an informed decision regarding countywide law enforcement that is in the best interest of the citizens.

DEPARTMENT HEAD REPORTS

No discussion.

NEW BUSINESS

Hire Pool Manager: Motion by Alderman Rangel, seconded by Alderman Odegaard to table hiring a pool manager until Terry Manning has interviewed the two applicants. All members voted aye. Motion carried.

Gortmaker Letter Response: Alderman Steers, chairman of the Public Safety Committee, addressed the letter that Rodney and Mary Jo Gortmaker submitted to the city council. In response to speeding, Steers stated it happens everywhere in town, and the police department is not to blame for the actions of others. There is only one officer on duty at a time, and it is impossible for that officer to be everywhere. Speed bumps was another item addressed. Steers stated that they are not an option on city streets. Speed bumps are intended for use in specific areas such as parks and designated school zones. As for the complaint about speeding and revving motors near the Gortmaker residence on Halloween night, Steers found that there was no report made to the police department that night. Steers went on to the next item and stressed that the subject of a minor will never again be a subject for discussion in an open city meeting. Paying off loans, saving money, and surcharges were addressed. Alderman Rangel ensured everyone that the city's debt and financial position is reviewed often, and loans are paid off whenever possible. Rangel stated that the city has paid off four different loans in the last five years. The current surcharges will continue to be charged until the respective loans are paid in full. It takes time to save up enough to pay down and/or pay off loans. The next complaint was

that the surcharges have doubled and even tripled Gortmaker's utility bills. Steers reviewed ten years of their billing history; the total in February 2011 - \$308.26, February 2021 - \$328.92. Alderman Rangel explained that people do not understand the surcharges. The council holds meetings and public group discussions in an attempt to educate the public about these charges that everyone has to pay including the board members themselves. Alderman Rangel also mentioned that he regularly visits with the constituents in his ward.

Joel Johnson, Code Enforcer Request: Motion by Alderman Rangel, seconded by Alderman Steers to put the Public Safety Committee on Johnson's email contacts list for future code enforcement matters. All members voted aye. Motion carried.

Natural Gas Meeting: There will be an informational meeting with NorthWestern Energy about bringing natural gas to rural cities with populations over 1,200 at the Miller community center on Wednesday, March 3 at 2:00 p.m.

Appoint Consolidated Board of Equalization Member: Mayor Blachford appointed Tammy Lichty as the city's member on the Consolidated Board of Equalization. Motion by Alderman Steers, seconded by Alderman Zeller to accept the Mayor's appointment. All members voted aye. Motion carried.

Ordinance #717 -- Firearms: Motion by Alderman Rangel, seconded by Alderman Swartz to table the first reading of Ordinance #717 -- Firearms for further review given the public's comments during Public Input. Citizens present at the meeting agreed that the version presented with the agenda is too restrictive. All members voted aye. Motion carried.

Helms & Associates Invoice: Motion by Alderman Steers, seconded by Alderman Odogaard to pay Helms & Associates \$1,916.24 for invoice number 23248. All members voted aye. Motion carried.

Lineman/Temporary Electric positions: Mayor Blachford assigned the Utilities Committee to reviewing the current applications received and possibly readvertising to fill the lineman position and temporary electric position in the city's electric department.

Approval of Bills: Motion by Alderman Odogaard, seconded by Alderman Rangel to approve the bills for payment. All members voted aye. Motion carried.

EXECUTIVE SESSION

Motion by Alderman Zeller, seconded by Alderman Rangel to go into executive session for personnel matters pursuant to SDCL 1-25-2(1) at 7:55 p.m. All members voted aye. Motion carried. Motion by Alderman Zeller, seconded by Alderwoman Lichty to come out of executive session at 8:35 p.m. All members voted aye. Motion carried. No action taken.

Motion by Alderman Zeller, seconded by Alderman Steers to adjourn the meeting. There being no further business, the meeting was adjourned at 8:37 p.m. All members voted aye. Motion carried.

Ronald Blachford, Mayor

Cindy Deuter, Deputy Finance Officer

LEGAL NOTICE OF RECEIPT

Copy of the official proceedings
was received on: _____
Published once at the
approximate cost of: _____

Bills March 2021 (1)

American Solutions	Supplies	18.00
AT&T	Cell Phone	45.39
B & L Communications	Equipment Installation	1,872.63
BDS	Garbage	179.00
City Utilities	Utilities	10,801.51
CK Welding	Supplies	301.80
DGR Engineering	Prof Fees	3,389.00
Fischer Plumbing	Repairs	67.24
Helms & Associates	Prof Fees	1,916.24
Ron Hoftiezer	Reimb	11.00
MicroFix	Computer	1,229.00
Midwest Fire & Safety	Extinguisher Inspections	1,111.50
Midwest Glass	Repairs	201.84
Oakley Farm & Ranch	Fittings	257.05
Postmaster	Postage	325.00
Prairieband Collections	Prof Fees	8.26
SD Public Health Lab	Tests	30.00
SD Dept of Public Safety	Service	2,340.00
SD Federal Property Agency	Street Sweeper	19,500.00
	Accounts Payable Total	<u>\$43,604.46</u>

Payroll Salary plus		2/26/2021 &		
Benefits by Department:		3/02/2021		
Department		w/o OT	OT	Total
41101 COUNCIL		1,996.89	0.00	1,996.89
41402 FINANCE OFFICE		1,375.37	0.00	1,375.37
41902 BUILDING		461.82	0.00	461.82
42101 POLICE		11,984.15	1,235.38	13,219.53
43101 STREET		5,129.32	197.55	5,326.87
43201 SEWER		5,334.12	245.46	5,579.58
43305 WATER		5,334.05	245.43	5,579.48
43403 ELECTRIC		5,065.58	0.00	5,065.58
		<u>\$37,581.30</u>	<u>\$1,923.82</u>	<u>\$39,505.12</u>

**CITY OF MILLER
CITY COUNCIL MEETING
MARCH 8, 2021**

The City of Miller is an equal opportunity employer.

The City Council met in special session at city hall at 6:00 p.m. on Monday, March 8, 2021.

MEMBERS PRESENT: Mayor Ron Blachford, Aldermen: Jim Odegaard, Tony Rangel, Bob Steers, Jeff Swartz, Joe Zeller and Alderwoman Tammy Lichty.

CALL TO ORDER: Mayor Blachford called the meeting to order.

Pledge of Allegiance was said by all present.

AGENDA: Motion by Alderman Odegaard, seconded by Alderman Rangel to approve the agenda. All members voted aye. Motion carried.

PUBLIC INPUT: Mike Moncur, Dakota Energy, was present to offer their assistance to the city electric department.

EXECUTIVE SESSION: Motion by Alderman Rangel, seconded by Alderwoman Lichty to go into executive session for personnel matters pursuant to SDCL 1-25-2(1) at 6:05 p.m. All members voted aye. Motion carried. Motion by Alderman Zeller, seconded by Alderman Odegaard to come out of executive session at 8:44 p.m. All members voted aye. Motion carried. No action taken.

NEW BUSINESS

Electric Superintendent/Lineman Positions: Motion by Alderman Rangel, seconded by Alderwoman Lichty to table a decision regarding the electric superintendent and lineman positions. All members voted aye. Motion carried.

Hire Pool Manager: Motion by Alderman Rangel, seconded by Alderman Odegaard to hire Sydney Jessen as the pool manager. Terry Manning and Alderman Rangel interviewed two applicants for this position. All members voted aye. Motion carried.

Motion by Alderman Zeller, seconded by Alderwoman Lichty to adjourn the meeting. There being no further business, the meeting was adjourned at 8:48 p.m. All members voted aye. Motion carried.

Ronald Blachford, Mayor

Sheila Coss, Finance Officer

LEGAL NOTICE OF RECEIPT

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W1/4 Cor. Sec. 2-112-66
(FOUND REBAT)
N = 258180.92
E = 223352.48

N1:4 Cor. Sec. 2-112-55
 {FOUND Rebar}
 N = 252029.62
 E = 1236102.26

Prepared by:

Assurance



LEGEND

- PIN FOUND (AS NOTED)
- PIN SET W/ CAP 15 11699
- ⊗ CALCULATED CORNER

BASIS OF BEARINGS
 STATE PLANE COORDINATE SYSTEM
 SOUTH DAKOTA NORTH ZONE (42001)
 US SURVEY FEET - NAD 83
 DISTANCES SHOWN ARE GROUND
 COORDINATES SHOWN ARE GRID

DRAWING SCALE
1" = 200'
SCALE IN FEET

SHEET 1 OF 2

MUNICIPAL POWER TO CONSTRUCT GAS UTILITY AND TRANSMISSION LINES

Any municipality may purchase, construct, or otherwise acquire, establish, equip, maintain, operate, extend, or improve any system or part of system for the purpose of providing gas. The gas systems shall supply the municipality or any specified portion of the municipality or adjacent territory within ten miles of its corporate limits and the inhabitants thereof with gas.ⁱ Municipalities also have the ability to procure gas and construct and maintain outside its corporate limits and construct, own and operate pipelines for the transmission of gas.ⁱⁱ

POWER OF MUNICIPALITIES TO CREATE A JOINT USE POLITICAL SUBDIVISION TO SUPPLY GAS

Municipalities in South Dakota have the ability to exercise municipal powers jointly. Municipalities are also authorized to establish a separate legal entity to exercise powers they jointly hold.ⁱⁱⁱ This legal entity would be a “political subdivision” of the State of South Dakota. The legal entity would not be subject to federal income tax.

Any two or more municipalities are authorized to form a separate legal entity. The separate legal entity may be formed upon a motion approved by a majority vote of all participating municipalities.^{iv}

The entity may be formed for economic development purposes or to provide greater efficiency or improved services among the governing bodies.

The governing body of the joint entity shall be composed of the elected officials from the participating governing bodies.

The agreement shall set forth the portion of support provided by each governing body.

The joint entity may not levy property taxes, but may operate enterprise functions, set fees for services, employ staff, and own real or personal property.

The joint entity may borrow funds to finance the purchase of real or personal property or to construct facilities. Any financing by bonds or other method shall require approval by more than sixty percent of the members of each participating governing board.

The joint entity may enter into multiyear contracts.

The joint entity shall follow all statutory requirements for public notice of meetings, publication of minutes, open meetings, the letting of public contracts, conflict of interest, disposal of surplus property, and audits.

ⁱ SDCL § 9-40-1.

ⁱⁱ SDCL § 9-40-4

ⁱⁱⁱ SDCL §§ 1-24-1 & 1-24-19

^{iv} SDCL § 1-24-19

JOINT POWERS AGREEMENT

REGIONAL GAS UTILITY AUTHORITY

BY AND BETWEEN

[LIST OF CITIES]

DATE

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JOINT POWERS AGREEMENT REGIONAL GAS UTILITY AUTHORITY

This Joint Powers Agreement ("Agreement") for the Regional Gas Utility Authority ("Authority") is dated as of _____, 2020 ("Effective Date"), and is among (collectively, the "Founding Members of the Authority" or "Founding Members"), individual parties to this Agreement also may be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

- A. Each Party pursuant to SDCL § 5-40-1 is authorized and empowered to construct a system or part of a system for the purpose of providing gas for municipal, industrial, and domestic purposes.
- B. Each party is authorized to supply gas to their municipality and adjacent territory within ten miles of its corporate limits.
- C. Each Party pursuant to SDCL § 9-40-4 may procure a supply of gas and for such purposes may construct, operate, and maintain outside its corporate limits, as a part of the gas system, pipelines for the transmission of gas.
- D. Each Party is a municipality authorized and empowered to contract for the joint exercise of powers and to jointly exercise any power common to them under South Dakota Codified Law § 1-24-2.
- E. Pursuant to SDCL § 1-24-2, any power or powers, privileges, or authority exercised or capable of exercise by each party may be exercised and enjoyed jointly.
- F. The Parties wish to enter into a joint powers agreement that will establish a joint powers authority ("Authority") to establish, equip, maintain, operate, extend and improve a system for providing natural gas.
- G. Each party has adopted an ordinance authorizing the entering into and the execution of this Agreement pursuant to SDCL § 1-24-3.
- H. The governing board of each Party has determined that it is in such Party's best interest and in the public interest that this Agreement be executed and that it participate as a Party of the Authority.

THE PARTIES THEREFORE AGREE AS FOLLOWS:

Article I. DEFINITIONS

Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this agreement and of any agreement supplemental hereto, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Unless otherwise defined in this agreement, all terms used herein shall have the meanings assigned to such terms in the Act.

"Act" means Title 5.

"Agreement" means this Joint Powers Agreement.

"Authority" means the Regional Gas Utility Authority.

"Board" or "Board of Directors" means the governing body of the Authority.

"Dispute" means any dispute, claim, question or disagreement.

"Funding Members" means ICITEST.

"Member" means a party to the Agreement.

"Project" means the natural gas transmission and distribution systems which will be used to provide natural gas services to residents of the Members of the Authority and which will be developed, constructed, operated, and maintained by North Western Energy Gas Services LLC and owned by the Authority.

"State" means the State of South Dakota

Article II. CREATION OF THE AUTHORITY

Section 2.01. Creation.

Under South Dakota Codified Laws Chapter 1-24, (as amended from time to time), the Founding Members hereby create a separate joint exercise of powers authority which is named the Regional Gas Utility Authority, a quasi-municipal corporation. The Authority shall be a non-profit corporation and no part of it nor earnings may inure to the benefit of any private person.

Section 2.02. Separate Entity.

The Authority is a public entity separate from the Members.

Section 2.03. Assets, Rights, and Liabilities.

The assets, rights, debts, liabilities, and obligations of the Authority shall not constitute assets, rights, debts, liabilities or obligations of any of the Members. However, nothing in this Agreement shall prevent any Member from separately contracting for or assuming responsibility for specific debts, liabilities or obligations of the Authority, provided that both the Board and the Member approve such contract or assumption.

Article III. PARTIES TO AGREEMENT

Each Founding Member certifies that it intends to, and does, contract with every Founding Member that is a signatory to this Agreement and, in addition, with such other entities as may later be added as Members under Section 6.07 of this Agreement. Each Founding Member also certifies that the deletion of any founding Member from this Agreement does not affect this Agreement nor each remaining Founding Member's intent to contract with the other remaining Members.

Article IV. PURPOSES AND OBJECTIVES

The purposes and objectives of this Agreement are to establish the Authority, to provide for its governance and administration, and to define the rights and obligations of the Members. This Agreement authorizes the Authority to study and undertake the Project, which may include Preliminary Planning (as defined in Article IX), developing cost estimates, and conducting public outreach. Upon a determination that the Project would be in the best interests of the communities served by the Authority, the Authority may elect to proceed with the final planning and implementation of the Project. This Agreement does not legally bind or otherwise commit the Authority to proceed with the Project unless and until the Authority approves the Preliminary Planning for the Project.

Article V. POWER OF THE AUTHORITY.

The Founding Members hereby establish the Authority as a separate public authority under SDCL Chapter 1-24. The Authority shall have the powers common to the Members to carry out the purposes set forth in this Agreement. The Authority shall have the power to perform all acts necessary in the exercise of these common powers to develop and implement the Project, including but not limited to the following specific powers:

- (1) Have perpetual succession as a body politic and corporate exercising essential public functions;
- (2) Sue and be sued in its own name;
- (3) Have an official seal and alter the seal at will;
- (4) Maintain an office or such places within the state as the Authority may designate;
- (5) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;
- (6) Borrow money and accept gifts;
- (7) Acquire for and use gifts, grants, or loans of money or other property from the United States, the state, a unit of local government, any, or any person for any authority purposes and enter into agreements required in connection therewith;
- (8) Hold, use, and dispose of such moneys or property for any authority purposes in accordance with the terms of the gift, grant, loan, or agreement;
- (9) Employ fiscal consultants, engineers, attorneys, management service providers, and such other consultants and employees as may be required and contract with Authorities or agencies of the state to provide staff and support services;

- (10) Procure insurance against any loss in connection with its property and other assets, including loans, bonds, and notes in such amounts and from such insurers as it may deem advisable;
- (11) Hold, control, and acquire by donation or purchase any private or public easements, dedications to public use, planted reservations for private or public purposes, or any reservations for those purposes and make use of such easements, dedications, or reservations for any of the purposes authorized by SDC, Title 9;
- (12) Lease as lessor or lessee to or from any person, firm, limited liability company, corporation, association or body, public or private, any projects of the type that the authority may undertake and facilities or property of any nature for the use of the authority to carry out any of the purposes authorized;
- (13) Borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as provided by SDC, Chapter 9.40;
- (14) Procure insurance, letters of credit, guarantees, or other credit enhancement arrangements from any public or private entities, including any department, agency, or instrumentality of the United States or the state, for payment of all or any portion of any bonds issued by the authority, including the power to pay premiums, fees, or other charges on any such insurance, letters of credit, guarantees, or credit arrangements;
- (15) Receive and accept from any source financial aid or contributions of moneys, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States for any purpose;
- (16) To the extent permitted under its contract with the holders of bonds of the Authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party;
- (17) Make loans and grants to, and enter into financing agreements with, any governmental agency or any person for the costs incurred in connection with the development, construction, acquisition, improvement, maintenance, operation, or decommissioning of any facilities, or for the maintenance of the physical or structural integrity of real or personal property incorporated or which may be incorporated into such facilities, in accordance with a written agreement between the Authority and such governmental agency or person. However, no such loan or grant may exceed the total cost of such facilities as determined by the governmental agency or person and approved by the Authority;
- (18) Cooperate with and exchange services, personnel, and information with any governmental agency or political subdivision;
- (19) Enter into agreements for management on behalf of the authority of any of its properties upon such terms and conditions as may be mutually agreeable;
- (20) Sell, exchange, lease, donate, and convey any of its properties whenever the Authority finds such action to be in furtherance of the purposes for which it was organized;

- (21) Purchase from a willing seller, construct, develop, maintain, hold, lease, license, operate, dispose of, or decommission real and personal property projects, facilities, or any undertaking necessary to accomplish the purpose of this agreement;
- (22) Indemnify any person or governmental agency for such reasonable risks as the Authority deems advisable if the indemnification is a condition of a grant, gift, or donation to the Authority. However, any such obligation to indemnify may only be paid from insurance or from revenues of the Authority, and such obligation does not constitute a debt or obligation of the any party;
- (23) Acquire all real or personal property that it deems necessary for carrying out the purpose of this Agreement whether in fee simple absolute or a lesser interest, by condemnation and the exercise of the power of eminent domain in accordance with chapter 21-35;
- (24) Cooperate with, or contract with, other governmental agencies or political subdivisions as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this agreement; and
- (25) Contract with NorthWestern Energy Gas Services LLC to develop, construct, operate, and maintain the natural gas distribution and transmission systems that comprise the Project.

Article VI. GOVERNANCE

Section 6.01 Board of Directors

The governing body of the Authority is a Board of Directors ("Board") composed of not less than five nor more than 12 Directors, with such number to be established, from time to time, by resolution of the Board. All powers of the Authority shall be exercised by the Board unless delegated to committees, the Executive Director, or as otherwise specified. The initial Board shall consist of _____ Directors, with each Founding Member being entitled to appoint one Director. As new Members join the Authority, the Board shall have the discretion, but not the obligation, to increase the size of the Board to allow Members (excluding Founding Members) to elect Directors in accordance with Section 6.02. The Board shall serve without compensation.

Section 6.02. Composition. Each Founding Member will be entitled to appoint one Director on the Board for so long as such Founding Member remains a Member of the Authority. Directors, if any, not appointed by a Founding Member shall be elected by the Members (excluding Founding Members) at the annual meeting of Members in accordance with any election procedures adopted by the Board.

Section 6.03. Tenure. Each Director appointed by a Founding Member shall have office from the first meeting of the Board after being appointed to the Board, until his or her successor is selected by such Founding Member. Each Director, if any, elected to the Board by the Members (excluding Founding Members) shall serve a one-year term. If a Director who was elected to the Board by the Members (excluding Founding Members) resigns before the end of his or her one-year term, the Board by majority vote shall appoint a Director to finish the remainder of his or her one-year term.

Section 6.04. Meetings. The Board shall hold regular meetings at such place and time as the Board may establish by resolution, but shall not meet less frequently than once per quarter. The Board may hold special meetings of the Board as needed to carry out the purposes and objectives of the Authority. Meetings of the Board will be held in compliance with open meeting laws and regulations. A majority of the Directors shall constitute a quorum for the transaction of business of the Board, except that Directors constituting less than a quorum may adjourn any meeting. Each Director is entitled to cast one vote on any matter presented to the Board for a vote.

Section 6.05. Proceedings. A Chair will preside at board meetings, and in the absence of the Chair, a Vice Chair. The Board will annually select the Chair and Vice Chair from the Directors serving on the Board. The Board Directors shall not receive any compensation from the Authority for their Board service, but they shall be entitled to the reimbursement of any actual and necessary expenses incurred in the performance of their official Board duties for the Authority.

Section 6.06. Budgets.

The Board shall adopt an annual budget. The approval of the Board by resolution shall be required for all contracts and purchases of the Authority. Each Authority Member shall approve its annual contribution, if any, based on the approved budget. An Authority Member that does not approve an annual contribution shall resolve any objection to the annual budget with the Board within thirty (30) days after the board adopts the budget.

An Authority Member's failure to approve an annual budget contribution within thirty (30) days after the Board adopts the budget will constitute an Event of Default under Article XI, and grounds for removal under Section 6.07.

[Should there be something in this section about contract awards? See section heading.]

Section 6.07. Membership.

The Board may admit a new Member to the Authority upon approval of the Board by resolution. Such new Member shall have all of the rights and obligations of Founding Members under this Agreement, except the right to appoint a representative to serve on the Board.

The Board may remove any Member of the Authority that fails to take timely action with regard to its material obligations to the Authority. The Board shall establish a withdrawal, separation and/or removal procedure in accordance with the requirements of due process, which will at a minimum include notice

and an opportunity for a fair hearing. A Member shall not be removed unless the Board finds that there has been an Event of Default under Article XII.

Section 6.08. Authority Counsel.

The Board shall retain and appoint legal counsel for the Authority.

Section 6.09. Consultants.

The Board may retain consultants for the project, public relations, governmental relations, or other purposes needed for the advancement of the interests of the Authority.

Section 6.10. Committees.

The Board may create committees to facilitate work on the Project. The Parties may make members of their respective staffs available to serve on the Authority's committees or to assist with their work.

Section 6.11. Procurement.

The Board shall adopt policies and procedures for the procurement of materials, supplies, equipment, and services or to comply with any other provision of law. The Board may delegate the authority to make certain purchases to a purchasing agent to be appointed by the Board.

Section 6.12. Other Offices.

The Board may create such other offices and appoint individuals to such offices as it considers either necessary or convenient to carry out the purposes of this Agreement.

Section 6.13. Code of Conduct.

The Board shall adopt a Code of Conduct for the Authority.

Article VII. EXECUTIVE DIRECTOR

The position of Executive Director is created. The Executive Director is appointed by the Board and serves at the will of the Board. The Executive Director shall receive such compensation as the Board shall from time to time determine. The duties of the Executive Director include, but are not limited to, the following:

- (a) Administers any and all Board meeting agendas, including compliance with the noticing requirements and meeting locations as provided in SDCL Chapter 1-25.
- (b) Causes accurate minutes and records to be taken of all Board meetings in accordance with South Dakota law.
- (c) Has authority to appoint, remove, promote, demote, supervise, and determine compensation of any and all of the Authority's employees in accordance with Board approved salary ranges.
- (d) Manages any and all Authority contracts or agreements.
- (e) Approves any and all Authority payments in conformance with Board approved appropriations.
- (f) Attends all Board Meetings.
- (g) Prepares and submits to the Board an annual budget.
- (h) Performs such other duties as the Board shall require.

Article VII. Treasurer

Section 8.01 Appointment and Duties of Treasurer.

The Board shall appoint a Treasurer. The Treasurer shall perform all of the acts required by SDCI Chapter 9-14.

Section 8.02 Annual Reports and Audits.

The Treasurer shall be the auditor or controller of the Authority. The Treasurer shall cause an annual report to be made with respect to all Authority receipts, disbursements, other transactions and entries into the books. The annual report shall be filed as required by State law. If required and directed by the Board, the Treasurer shall cause an annual financial audit to be made by an independent certified public accountant with respect to all Authority receipts, disbursements, other transactions and entries into the books. A report of the financial audit will be filed as a public record with each Member. The audit will be filed no later than required by State law. The Authority will pay the cost of the financial audit in the same manner as other administrative costs.

Section 8.03 Replacement of Treasurer.

The Board may from time to time change the designated Treasurer to any person who is qualified by law to occupy such office.

Section 8.04 Accounting and Investments.

a) The Authority is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It will comply with every provision of law relating to the establishment and administration of funds, particularly SDCI Chapter 4-5.

b) The funds will be accounted for in accordance with the procedures set forth in South Dakota Legislative Audit Accounting Manual.

c) The Treasurer will receive, invest, and disburse funds only in accordance with procedures established by the Board and in conformity with applicable law. The Treasurer will procure a fidelity bond in accordance with the bylaws.

Article IX. Preliminary Planning Activities for the Project

Section 9.01 Preliminary Planning

The first stage of the Project shall consist of preliminary planning activities, including without limitation, the following tasks:

- a) Continuing research for the Project as needed;
- b) Conducting public outreach;
- c) Compliance with the South Dakota Environmental laws and
- d) Investigation of potential sources for grants, loans, or other outside funding sources.

Section 9.02 Planning

The Parties shall perform planning for the Project, and the costs of the planning, if needed, will be shared by the Parties in accordance with the cost allocations described in Article X of this Agreement.

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Section 9.03 Final Design of the Project

Upon completion of the Preliminary Planning for the Project set forth in Section 9.01, the Board may elect to approve the Project. The Board may then direct completion of the final design of the Project, including all terms and conditions.

Article X. Cost Allocation

Section 10.01 Scope of Work

The Board shall prepare and approve the scopes of work for all work necessary to complete the Project.

Section 10.02 Cost Allocations

The Members shall equitably share the Authority's costs. Upon termination of this Agreement or completion of the Project, whichever occurs first, any surplus money on hand will be distributed to the Members in proportion to their contributions.

Section 10.03 Public Outreach

The Board may retain consultants and conduct public outreach concerning the Project. If necessary, prior to the effective date of this Agreement, the Members shall enter into a Cost Sharing Agreement that provides for the Members to share the costs of such work. The Members shall share the costs incurred by the Authority to conduct any public outreach beyond the termination of the Cost Sharing Agreement, if any, subject to action by the Authority and the Agreement of the Members.

Section 10.04 Preliminary Facilities Planning Costs

The costs of Preliminary Planning, as set forth in Section 9.01, will be shared between the Members in accordance with Section 10.02.

Section 10.05 Design of the Project

The cost of developing the design of the Project will be shared between the Members in accordance with Section 10.02.

Section 10.06 Oversight of the Project

Oversight of the Project will be performed by the Authority's Board. The cost of oversight will be paid by the Authority from funding provided by the Members in accordance with Section 10.02.

Section 10.07 Other Scope Elements

Other costs will be shared in accordance with the mutual agreement of the Members.

Article XI. Preliminary Description of the Project

The Project consists of natural gas transmission and distribution systems to provide natural gas services to residents of the Members of the Authority, which systems will be developed, constructed, maintained, and operated by NorthWestern Energy Gas Services LLC and owned by the Authority. In addition to the Founding Members, the Parties anticipate the Project will be extended and membership in the Authority offered to approximately 80 other communities in South Dakota that currently do not have natural gas service.

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Article XII. Event of Default

The failure of a Party to comply with any provision of this Agreement that has a material and adverse effect on any other Party *will constitute an Event of Default* under this Agreement, except that the defaulting Party shall first have a period of thirty (30) days following receipt of notice from the other Party of such failure to comply to cure such failure, or if such cure cannot be effected within such thirty (30) day period, such period will extend for a total of sixty (60) days, so long as the defaulting Party is diligently trying to cure the failure throughout such period and such failure does not materially adversely impact the implementation of the Project.

Article XIII. Dispute Resolution

Representatives of the Parties shall meet and use their best efforts to settle any dispute, claim, question or disagreement (a "Dispute") arising from or relating to this Agreement or to the interpretation of this Agreement. To that end, representatives of the Parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to all Parties. If the Parties do not reach such a solution within a period of thirty (30) days after the first meeting regarding a Dispute, then the Parties shall convene a meeting of the Board within sixty (60) days after the first meeting of the Party representatives regarding a Dispute and request that the Board settle the Dispute at the meeting. If the Parties do not settle the Dispute at the Board meeting or within five (5) calendar days after the Board meeting, either Party may request a voluntary mediation or the Dispute to be held within thirty (30) days after the request for mediation. If a mediation is not requested or is not successful, any Party may pursue any and all legal and equitable remedies that may be available. Any Party with a Dispute over the amount of money to be paid to the Authority or a Party shall first pay the disputed amount to the Authority or other Party under protest before commencing dispute resolution under this Section. The respective costs for resolving any Dispute shall be borne by the individual Parties, not the Authority.

Article XIV. Dissolution and Limitation on Liability for Debts and

Obligations Upon dissolution of the Authority, the title to all property owned by it shall vest in and become the property of the Members. The debts, liabilities, and obligations of the Authority do not constitute the debts, liabilities, or obligations of any Party to this Agreement. A Party may separately contract for or assume responsibility for specific debts, liabilities, or obligations of the Authority. Notwithstanding any other provision of this Agreement, no fee, assessment or charge may be levied against a Party without express consent of the Party.

Article XV. Fiscal Year

The first fiscal year of the Authority is the period from the date of this Agreement through December 31, 2019. Each subsequent fiscal year of the Authority begins on January 1 and ends on December 31.

Article XVI. Filings.

The Chair of the Board of the Authority shall cause this Agreement to be filed with the South Dakota Attorney General, the South Dakota Legislative Research Council, and the South Dakota Secretary of State.

Article XVII. Force Majeure

The Parties will not be deemed to be in default where failure or delay in performance of any of its obligations (other than payment obligations) under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, actions of legislative, judicial, executive, or regulatory government bodies or other cause, without fault and beyond the reasonable control of such Party. If any such events shall occur, the time for performance by either Party of any of its obligations under this Agreement will be extended by the Parties for the period of time that such events prevented such performance. Upon the occurrence of an event of Force Majeure, the affected Party shall: (i) promptly notify the other Party of such Force Majeure event; (ii) provide reasonable details relating to such Force Majeure event; and (iii) implement mitigation measures to the extent reasonable.

Article XVIII. Insurance

The Authority shall procure, carry, and maintain in full force and effect insurance in such forms and amounts as determined by the Board.

Article XIX. Defense and Indemnity

The Authority shall assure the defense of and indemnify and save harmless each Party to this Agreement and its respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the activities of the Authority undertaken pursuant to this Agreement.

Article XX. Notices

All notices required or permitted under this Agreement must be in writing and will be deemed delivered: (i) when delivered in person; (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery; or (iv) upon receipt of a confirmed transmission, if sent, teletype or facsimile transmission; *[MEMBERS & ADDRESSES]*

Article XXI. Successors And Assigns

The terms and conditions of this Agreement inure to the benefit of and will be binding upon the Parties and their respective heirs, representatives, successors and permitted assigns.

Article XXII. Further Acts and Assurances

The Parties shall execute, acknowledge, and deliver any and all additional papers, documents, and other assurances and shall perform any and all acts and things reasonably necessary, in connection with the performance of the obligations under this Agreement and to carry out the intent of the Parties.

Article XXIII. Captions

The captions in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement nor in any way affect this Agreement. Words of any gender in this Agreement will be held to include any other gender and words in the singular number will be held to include the plural when the sense so requires.

Article XXIV. Severability

Should it be found that any part of this Agreement is illegal or unenforceable, such part or parts of this Agreement will be of no force nor effect and this Agreement will be treated as if such part or parts had not been inserted.

Article XXV. Entire Agreement

All previous negotiations between the Parties or their agents or representatives with respect to this Agreement are merged in this Agreement.

Article XXVI. Modifications

This Agreement will not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors in interest.

Article XXVII. Interpretation

Each Party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of this Agreement.

Article XXVIII. Governing Law & Venue

This Agreement is to be governed by and construed according to the laws of South Dakota. Venue for all disputes involving this Agreement shall be the County of Minnehaha.

Article XXIX. Assignment

No Party may assign a right, claim, or interest it may have under this Agreement. No creditor, assignee or third party beneficiary of a Party has a right, claim or title to any part, share, interest, fund or asset of

the Authority. However, nothing in this Section prevents the Authority from assigning any interest or right it may have under this Agreement to a third party.

Article XXX. Representations and Warranties

No representations or warranties are made or have been relied upon by either Party other than those expressly set forth in this Agreement, if any.

Article XXXI. Cooperation

The Parties shall fully cooperate with each other in conjunction with this Agreement and act reasonably in the exercise of any discretion to assure that they all continue to benefit from the Project. Each Party to this Agreement shall execute and deliver to the other all instruments and documents as may be reasonably necessary to carry out this Agreement to provide and secure to each Party the full and complete enjoyment of its rights and privileges under this Agreement.

Article XXXII. Other Agreements

The Parties and the Authority may enter into any other agreement(s) that may be necessary for fulfilling the purpose and objective of the Authority.

Article XXXIII. Agreement Not for Benefit of Third Parties

This Agreement will not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties will have any right of action under this Agreement for any cause whatsoever. Any services performed or expenditures made in connection with this Agreement by any Party will be deemed conclusively to be for the direct protection and benefit of the inhabitants and property within the jurisdiction of such Party. No person or entity, other than the Parties and their permitted successors and assigns, is authorized to enforce the provisions of this Agreement.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

The Parties are signing this Joint Exercise of Powers Agreement as of the date stated in the introductory clause.

[CITY]

By _____

Title: _____

[CITY]

By _____

Title: _____

[CITY]

By _____

Title: _____

[CITY]

By _____

Title: _____

[CITY]

By _____

Title: _____

[CITY]

By _____

Title: _____

ORDINANCE #717

The City of Miller is an equal opportunity employer.

AN ORDINANCE OF THE CITY OF MILLER, SOUTH DAKOTA
APPROVING A JOINT POWERS AGREEMENT
BETWEEN _____ FOR THE
ESTABLISHMENT OF THE _____ GAS AUTHORITY, A
JOINT POWERS AUTHORITY

WHEREAS, the City of Miller (the "City"), pursuant to SDCL § 9-40-1, is authorized and empowered to construct a system or part of a system for the purpose of providing gas for Authority, industrial, and domestic purposes; and

WHEREAS, the City is authorized to supply to gas to the Municipality and adjacent territory within ten miles of its corporate limits; and

WHEREAS, pursuant to SDCL § 9-40-4, the City may procure a supply of gas and for such purposes may construct, operate, and maintain outside its corporate limits, as a part of the gas system, pipelines for the transmission of gas; and

WHEREAS, the City is authorized and empowered to contract for the joint exercise of powers and to jointly exercise any power common with other municipalities under South Dakota Codified Law § 1-24-2; and

WHEREAS, pursuant to SDCL § 1-24-2, any power or powers, privileges, or authority exercised or capable of exercise by each municipality may be exercised and enjoyed jointly; and

WHEREAS, [list of municipalities] wish to enter into a joint powers agreement that will establish a joint powers authority ("Authority") to establish, equip, maintain, operate, extend and improve a system for providing natural gas; and

WHEREAS, the City finds and declares that it is in its best interest and in the public interest that a joint powers agreement be executed and that it participate as a party.

NOW THEREFORE BE IT ORDAINED BY THE CITY MILLER OF AS FOLLOWS:

Section 1. The City Council hereby approves the Joint Powers Agreement -- Regional Gas Utility Authority (the "Joint Powers Agreement") on file with the Finance Officer and open to public inspection during regular business hours, a copy to be placed in the minutes but not published.

Section 2. The Mayor and Finance Officer are authorized to execute the Joint Powers Agreement and such documents as may be necessary to carry out the intent of this ordinance.

Section 3. This ordinance shall take effect twenty days after publication.

RESOLUTION APPOINTING _____ TO THE BOARD OF DIRECTORS OF THE
REGIONAL GAS UTILITY AUTHORITY

BE IT RESOLVED BY THE CITY COUNCIL OF _____ that _____ be appointed
to serve on the Board of Directors of the Regional Gas Utility Authority.

Ronald Blachford, Mayor

(SEAL)

Resolution 2021-5
The City of Miller is an equal opportunity employer.

RESOLUTION TO ADOPT THE HAND COUNTY HAZARD MITIGATION PLAN

WHEREAS the City of Miller has experienced severe damage from strong winds, flooding, hail, heavy snow, heavy rain, and tornados on many occasions in the past century, resulting in property loss, loss of life, economic hardship, and threats to public health and safety;

WHEREAS a Hazard Mitigation Plan has been developed after more than one year of research and work by the City of Miller, Hand County Emergency Management, NECOG, and the Natural Hazard Mitigation Committee;

WHEREAS the Plan recommends hazard mitigation actions that will protect the people and property affected by the natural hazards that face the City;

WHEREAS a public meeting was held to review the Plan as required by law;

NOW THEREFORE BE IT RESLOVED by the Mayor and Council of Miller that:

1. The Hazard Mitigation Plan is hereby adopted as an official plan of City of Miller,
2. The respective City official identified in the strategy of the Plan is hereby directed to implement the recommended action assigned to them. These officials will report annually on the activities, accomplishments, and progress to Hand County Emergency Management,
3. The City of Miller planner will provide annual progress reports on the status of implementation of the plan to the Mayor and City Council. This report shall be submitted to the City Council by November 1st of each year.

Dated this 15th day of March, 2021.

Ronald Blachford, Mayor

ATTEST:

Sheila Coss, Finance Officer

SOUTH DAKOTA MUNICIPAL LEAGUE

You're Invited To The 2021 Virtual District Meetings!

March 22 @ 5:30 p.m. - Council Room

All Mayors, Town Presidents, Councilmembers, and City Officials are welcome to attend the SDML Virtual District Meetings. Meetings will be held via Zoom webinar in order for us to provide a safe way for everyone to hear from the SDML Board President, receive updates on the 2021 Legislative Session and learn more about services offered through our Risk Sharing Pools and Investment Fund.

***A Door Prize for a \$100 Gift Card will be given away during each District Meeting!
You must be present on the webinar to win.**

Please Note:

- The registration form includes all the meeting information and can also be found on our website at www.sdmunicipalleague.org/sdmlevents.
- It is necessary for everyone to register with their name and email address (the email address that the Zoom login should be sent to).
-Those who register to attend will be emailed the Zoom login information prior to each meeting.
- Deadline for Registration is ONE WEEK PRIOR to each meeting.
- If you are unable to attend the meeting for your district, you are welcome to attend the meeting for another district.
- If you are unsure of what district you're in, there is a list on our website at www.sdmunicipalleague.org, click on 'About' and then click on 'Board of Directors', then 'Cities by District'. If you're still unsure, call the League office at 1-800-658-3633.