

**AGENDA  
CITY OF MILLER  
MONDAY, AUGUST 7, 2023  
7:00 p.m.**

**Call to Order**

**Pledge of Allegiance**

**Approval of Agenda**

**Approval of Minutes ..... pgs. 1-3**

**Public Input**

**Department Head Reports ..... pgs. 4-7**

**Unfinished Business**

1. 2<sup>nd</sup> reading of Ordinance #746 Chickens .....pg. 8
2. Property & Liability Insurance

**New Business**

1. SD FIT
2. DANR Grant Agreements .....pg. 9
3. SPN Street Engineering Agreement ..... pgs. 10-12
4. SPN Phase III Invoice #31833 \$5,811.32 .....pg. 13
5. 5. East 4<sup>th</sup> Street Project
  - a. Olson Pay Request 3 - \$293,341.39 .....pg. 14
  - b. Certificate of Substantial Completion.....pg. 15
  - c. SPN Invoice #31852 - \$6,142.58.....pg. 16
6. Building Permits:
  - a. Tim & Abby Haiar – house
  - b. Erin & Calvin Kindle – garage
  - c. John Gasper – shop/garage
  - d. Sheila Hancock - fence

**Approval of Bills**

**Executive Session**

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

**Adjourn**

Public comments are welcomed during public input, but no action can be taken by the Council on comments received at this meeting. Anyone wishing to have the Council vote on an item should call the Finance Office at 853-2705 by 5:00 p.m. on the Wednesday preceding the next scheduled meeting to be placed on the agenda.

**UNAPPROVED  
CITY OF MILLER  
CITY COUNCIL MEETING  
JULY 17, 2023**

*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, July 17, 2023.

**MEMBERS PRESENT:** Mayor Tom McGough, Aldermen: Dale Hargens, Will Jones, Patrick Price, and Mike Wetz and Alderwomen: Susan Hargens and Tammy Lichty.

**CALL TO ORDER:** Mayor McGough called the meeting to order.

Pledge of Allegiance was said by all present.

**AGENDA:** Motion by Alderman Price, seconded by Alderwoman Hargens to approve the agenda. All members voted aye. Motion carried.

**MINUTES:** Motion by Alderman Hargens, seconded by Alderwoman Lichty to approve the minutes for the regular meeting held on July 5, 2023. All members voted aye. Motion carried.

**Public Input:** None.

**NEW BUSINESS**

**SD TA Grant Termination:** The City of Miller has requested termination of the SD TA Grant #717168 dated June 15, 2020, for the bike path that was requested by the school. Due to unforeseen circumstances, the school backed out of the project and the funding for the project. Mayor McGough expressed his appreciation to the SD DOT for working with the city to terminate the agreement. Motion by Alderman Wetz, seconded by Alderwoman Hargens to have Mayor McGough sign the Agreement to Terminate Number 717168 between the South Dakota Department of Transportation and the City of Miller and for the city to reimburse the state \$559.45 per the agreement. All members voted aye. Motion carried.

**Ordinance #746 - Chickens:** Mayor McGough read the first reading of Ordinance #746 to allow up to 6 chicken hens within city limits.

**Resolution 2023-5:** Motion by Alderman Hargens, seconded by Alderman Wetz to approve Resolution 2023-5 - Contingency Transfer. All members voted aye. Motion carried.

**American Bank & Trust - IntraFi Network Deposits:** Motion by Alderwoman Hargens, seconded by Alderman Jones to rescind the motion to sign the IntraFi Network Deposit Agreement with American Bank & Trust. The daily and monthly processes as well as the software changes were more complicated than originally indicated. All members voted aye. Motion carried. The finance committee recommended that the city submit \$1,500,000 from the general fund and \$500,000 from the electric fund to SD FIT through SDML. Current interest rates are 4.71%. This item will be discussed at the August 7<sup>th</sup> meeting.

**Building Permits:** Motion by Alderman Price, seconded by Alderman Wetz to approve building permits for Dustin Graham – fence and Marita Coyle – remove garage. All members voted aye. Motion carried.

**Approval of Bills:** Motion by Alderman Price, seconded by Alderwoman Lichty to approve the bills for payment. All members voted aye. Motion carried.

**PUBLIC HEARING**

**7:30 p.m. Liquor License Transfer:** A public hearing was held at 7:30 p.m. to discuss a liquor license transfer. Motion by Alderman Hargens, seconded by Alderman Wetz to approve a liquor license transfer for Redneck Paradise, DBA Cockeyed Mule to transfer their on-sale liquor license from Lot 12 and the N 6.5 feet of Lot 13, Block 4, Original Miller to Lots 10-12 inclusive, Block 16, Garlick's Addition to the City of Miller. All members voted aye. Motion carried.

**EXECUTIVE SESSION:** Motion by Alderwoman Hargens, seconded by Alderman Jones to go into executive session for personnel matters pursuant to SDCL 1-25-2(1) at 7:32 p.m. All members voted aye. Motion carried. Mayor McGough returned the meeting to regular session at 8:20 p.m. No action taken.

Motion by Alderman Wetz, seconded by Alderwoman Hargens to adjourn the meeting. There being no further business, the meeting was adjourned at 8:21 p.m. All members voted aye. Motion carried.

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Tom McGough, Mayor

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Sheila Coss, Finance Officer

**LEGAL NOTICE OF RECEIPT**

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

**Bills July 2023 (2)**

A & B Business	Supplies	199.28
A-Ox Welding	Supplies	61.70
BES Construction	Service	983.42
CNH Industrial	Supplies	74.35
Cowboy Country Stores	Fuel	2,492.72
Hand County Publishing	Publications	2,189.67
First Bank & Trust	Power	8,130.68
John Deere Financial	Supplies	178.42
Mastercard	Supplies/Water Purchased	23,091.36
Miller Ace	Supplies	1,427.47
NAPA	Parts	150.46
Oakley Farm & Ranch	Supplies	378.78

OHED	Industry	7,500.00
Petty Cash	Postage	21.99
Prairie Wind Promotions	Signs	250.00
Pump 'N Pak	Fuel	92.31
Riter Rogers Law	Prof Fees	997.50
Rocking Z Acres	Barrels	50.00
Rural Development	Loans	16,403.00
SD DOR	Excise/Sales Tax	9,825.19
SD DOT	Terminate TA Project	559.45
South Dakota 811	Locates	129.92
Stuart C Irby	Meters	1,932.00
Sturdevant's	Parts	153.63
WAPA	Power	44,152.90
Wetz, Mike	Reimb	34.81
Wik, Jessie	Refund	30.00
Wilbur-Ellis	Supplies	251.15
	Accounts Payable Total	<u>\$121,742.16</u>

**City Council Meeting  
Department Head Reports  
August 7, 2023**

**Police Department Report**

July 2023 Stats:

- a. Traffic Warnings (**79**): Speeding = 53, Other = 26
- b. Traffic Citations (**30**): Speeding = 25, No DL = 1, Violation of Restriction = 1, Careless Driving = 1
  - Total Fines = \$3,442.50
- c. Arrests (**2**): Aggravated Assault = 1, DUI = 1
- d. Agency Assists (**20**): Fire = 2, Ambulance = 13, Accidents = 1, Careflights = 1, Sheriff's Office/HP = 3
- e. 911 Misdial = **6**
- f. Funeral Escorts = **2**
- g. Fingerprints = **1**
- h. 24/7 = **1.5**
- Total Calls for Service (CFS) = **81**

**Street Department Report**

1. Dan was out at the landfill leveling the dirt and rubble for a few days.
2. David helped the Water Dept. with the sewer and water lines across from Vista Drive.
3. We were awarded \$3,232 for the West Nile Grant, that I applied for. In addition, we will receive another \$5,000 for mosquito surveillance (We send in the Culex Tarsalis mosquitos so they can be tested for West Nile).
4. I noticed that there was a hole on the east edge of the golf course bridge, so I called Hand County Highway, Danny Fischer and Jeff Hargens helped fix the problem.
5. We installed most of the signs in front of the High School.
6. Todd Hanks helped us cut several trees out of the alley along the old Midwest building.
7. All of the departments got together and poured concrete by the camper dump station. We will pour the other side the week of the 7<sup>th</sup>.
8. We installed a drop inlet north of the tornado shelter.
9. We are done fog sealing the new asphalt streets (21 blocks).
10. We will be chip sealing as soon as I can use the Hand County Highway oil tank and truck.

**Water/Sewer/Airport Department Report**

1. We installed the water & sewer lines from the street to the right of way for Tim & Abby Haier's Lot by Vista Drive for a new house.
2. We have been working on stopped water meters.
3. We've had quite a few locates.
4. We helped with concrete at the park dump station.
5. Pool -has been busy & will also be coming to an end on Aug.12<sup>th</sup>.
6. Tom, Dale, Sheila & I attended the Airport CIP meeting in Pierre with the SD Dot office of Aeronautics, City Engineers (Helm's & Assoc.) & the FAA over future plans & funding for airports, they have these meetings once a year.

**City Council Meeting  
Department Head Reports  
August 7, 2023**

**Electric Department Report**

1. Meter shut offs and rereads.
2. Locates.
3. Dustin went to Heartland Energy summer conference.
4. Prep project for Dollar Tree electric meter.
5. Spliced and rerouted wires for new location for future residential buildings.
  - Also helped with the water line for this location.
6. Installed routers and working on new Meter System.
7. Fixed some damaged infrastructure at airport from the winter.
8. Demo and reuse structure from old sub for scoreboard structure.
9. Set up and poured bases for new scoreboard at ballpark.
10. Poured concrete at park dump station.
11. Working on getting Armory parking lot lights going. When new poles get here, will install in front of Armory and school.

**Finance Office Report**

1. Sales Tax Report – *see attachment*
2. Christi and I have been working on the St. Lawrence budget.
3. I have been working with RD for our Phase IV funding application.
4. St. Ann's 3<sup>rd</sup> Annual Picnic in the Park is scheduled for August 27<sup>th</sup>.

Sales Tax Comparison			
	2023	2022	\$89,000 to OHED
January	\$5,538.74 \$84,909.08	\$22,742.58 \$83,647.88	\$7,500.00
February	\$8,948.46 \$77,211.64	\$7,263.69 \$49,006.24	\$7,400.00
March	\$9,448.03 \$61,202.63	\$22,701.40 \$48,300.52	\$7,400.00
April	\$6,140.47 \$72,324.14	\$15,196.87 \$84,109.99	\$7,400.00
May	\$4,508.98 \$78,963.60	\$3,697.46 \$54,796.92	\$7,400.00
June	\$11,133.47 \$76,266.58	\$21,710.46 \$70,195.06	\$7,400.00
July	\$17,438.16 \$81,723.89	\$8,713.63 \$80,134.08	\$7,500.00
August			\$7,400.00
September			\$7,400.00
October			\$7,400.00
November			\$7,400.00
December			\$7,400.00
<b>Total</b>	<b>\$595,757.87</b>	<b>\$572,216.78</b>	<b>4.11%</b>
	up/down from last year		<b>\$23,541.09</b>

# Gross Receipts Tax - Split

## Fund 211

Month	Current Year		
	Total	City 20%	OHED 80%
JAN	\$662.73 \$2,956.97	\$132.55 \$591.39	\$530.18 \$2,365.58
FEB	\$865.95 \$3,257.58	\$173.19 \$651.52	\$692.76 \$2,606.06
MAR	\$306.44 \$2,522.67	\$61.29 \$504.53	\$245.15 \$2,018.14
APR	\$870.10 \$2,739.31	\$174.02 \$547.86	\$696.08 \$2,191.45
MAY	\$782.47 \$3,108.55	\$156.49 \$621.71	\$625.98 \$2,486.84
JUN	\$1,047.08 \$3,847.81	\$209.42 \$769.56	\$837.66 \$3,078.25
JUL	\$1,440.45 \$4,058.20	\$288.09 \$811.64	\$1,152.36 \$3,246.56
AUG		\$0.00 \$0.00	\$0.00 \$0.00
SEP		\$0.00 \$0.00	\$0.00 \$0.00
OCT		\$0.00 \$0.00	\$0.00 \$0.00
NOV		\$0.00 \$0.00	\$0.00 \$0.00
DEC		\$0.00 \$0.00	\$0.00 \$0.00
	<b>\$28,466.31</b>	<b>\$5,693.26</b>	<b>\$22,773.05</b>

\$4,066.62  
average/month

Previous Year		
Total	City 20%	OHED 80%
\$1,921.21 \$2,726.88	\$384.24 \$545.38	\$1,536.97 \$2,181.50
\$1,018.51 \$1,637.65	\$203.70 \$327.53	\$814.81 \$1,310.12
\$1,548.89 \$1,118.32	\$309.78 \$223.66	\$1,239.11 \$894.66
\$1,964.67 \$2,504.18	\$392.93 \$500.84	\$1,571.74 \$2,003.34
\$981.81 \$1,481.53	\$196.36 \$296.31	\$785.45 \$1,185.22
\$1,534.05 \$3,645.41	\$306.81 \$729.08	\$1,227.24 \$2,916.33
\$1,105.03 \$3,526.13	\$221.01 \$705.23	\$884.02 \$2,820.90
\$1,644.68 \$2,879.69	\$328.94 \$575.94	\$1,315.74 \$2,303.75
\$2,288.67 \$2,904.47	\$457.73 \$580.89	\$1,830.94 \$2,323.58
\$930.54 \$4,209.50	\$186.11 \$841.90	\$744.43 \$3,367.60
\$1.58 \$2,991.20	\$0.32 \$598.24	\$1.26 \$2,392.96
\$1,863.59 \$3,537.13	\$372.72 \$707.43	\$1,490.87 \$2,829.70
<b>\$49,965.32</b>	<b>\$9,993.06</b>	<b>\$39,972.26</b>

\$4,163.78  
average/month

up/down from previous year		
Total	1,752.04	6.56%
City	350.41	6.56%
OHED	1,401.63	6.56%

Pay OHED through AP using expense code: 211-4651-4510

OHED 80%

Check # \_\_\_\_\_

Check Date \_\_\_\_\_

JUL	1,152.36
JUL	3,246.56
	<b>\$4,398.92</b>



## **ORDINANCE #746**

*The City of Miller is an equal opportunity employer.*

### **AN ORDINANCE AMENDING CHAPTER 4, ARTICLE IV, DIVISION 2 OF THE ORDINANCES OF THE CITY OF MILLER, SOUTH DAKOTA.**

**BE IT ORDAINED** by the City of Miller, South Dakota, that Article 4, Division 2. Livestock is hereby amended to read as follows:

#### **Article IV. CARE AND CONTROL**

##### **DIVISION 2. LIVESTOCK**

###### **4-151. Livestock defined.**

1. The term "livestock" shall mean any animal which is raised for normal agricultural purpose. The term does not include rabbits or chickens, but does include, although not exclusively, hogs, cattle, sheep, horses, etc.

###### **4-157. Chickens.**

1. City residents shall be allowed to have up to six (6) chicken hens. No roosters shall be allowed. Said chickens shall be appropriately housed and caged with the premises kept in a clean and orderly manner to prevent a nuisance from occurring through odor, noise, or other means.

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Tom McGough, Mayor

(SEAL)

ATTEST:

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Sheila Coss, Finance Officer

Record of votes:

Alderman Jones -  
Alderman Price -  
Alderman Hargens -  
Alderman Wetz -  
Alderwoman Lichty -  
Alderwoman Hargens -

1<sup>st</sup> Reading – July 17, 2023  
2<sup>nd</sup> Reading – August 7, 2023  
Adoption – August 7, 2023  
Publication – August 12, 2023



DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

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

May 11, 2022

Re: City of Miller, ARPA 2022G-ARP-166 & 2022G-ARP-167  
Phase IV Utilities Project CW-05 DW-05

The Honorable Ron Blachford  
Mayor of Miller  
120 West 2<sup>nd</sup> Street  
Miller, SD 57362-1316

Dear Mayor Blachford:

I would like to congratulate the City of Miller for obtaining American Rescue Plan Act grants for the Phase IV Utilities project. The 2022G-ARP-166 grant is for \$113,421 of eligible wastewater costs and the 2022G-ARP-167 grant is for \$2,733,245 of eligible drinking water costs.

Enclosed are the grant agreements for your projects. Please have the authorized signatory sign and date the agreements, make a copy for your files, and **return the originals to our office**. Also enclosed is a Payment Provisions Checklist related to the grant agreements. You cannot draw grant funds until the items listed on the checklist are submitted.

Please take note of the audit requirements outlined in item #7 of the grant agreement. Notification of total federal fund expenditures for this grant will be sent annually. It is your responsibility as a subrecipient to determine if the total federal fund expenditure amount requires a federal Single Audit and submit necessary information accordingly.

In addition, the enclosed W-9 form must be fully completed, signed, and the original returned to this department.

Ensure that your entity's registration in the System for Award Management is current and unexpired and send a printout of the entity registration from sam.gov to this department.

I look forward to working with your system on this project. Please contact me at 605.773.4216 or via email at [drew.huiskens@state.sd.us](mailto:drew.huiskens@state.sd.us) if you have any questions.

Sincerely,

Drew Huiskens, P.E.  
Natural Resources Engineer IV  
Environmental Funding Program

Enclosures

cc: Ted Dickey, Northeast Council of Governments, Aberdeen  
Camden Hofer, SPN & Associates, Mitchell



Schmucker, Paul, Nohr and Associates  
2100 North Sanborn Blvd — PO Box 398  
Mitchell SD 57301-0398  
Phone (605) 996-7761  
Fax (605) 996-0015  
www.spn-assoc.com

July 17, 2023

Tom McGough, Mayor  
City of Miller  
120 West 2<sup>nd</sup> Street  
Miller SD 57362

RE: Agreement for Civil Engineering Services  
Northview Drive Improvements

Dear Mayor McGough:

The firm of Schmucker, Paul, Nohr and Associates is offering the following Proposal / Letter of Agreement for professional services to be rendered for the civil engineering design and limited construction services of the Northview Drive Improvements project in Miller, South Dakota, hereinafter referred to as the Project, as shown in Exhibit A.

If accepted, this document will serve as a Letter of Agreement for engineering services between the City of Miller, hereinafter referred to as Client, and Schmucker, Paul, Nohr & Associates, hereinafter referred to as SPN, for the services as described in the following Scope of Work.

**Scope of Work:** SPN will perform professional engineering services, serve as your professional civil engineering representative and provide professional civil engineering consultation and advice as requested (verbally or in writing) by you or another official representative as designated by the Client in connection with the Project. Specifically, the scope of services that we would intend to provide in connection with this Project includes the following:

#### DESIGN PHASE SERVICES

1. SPN will complete a topographic survey of the entire proposed project site as identified in Exhibit A.
2. SPN will complete the preliminary design for the water distribution, storm drainage, curb and gutter, and street systems for Northview Drive and the future extension of 1<sup>st</sup> Avenue, and prepare plans for the storm drainage, curb and gutter, street systems and interim gravel surfacing for the east 250 feet of Northview Drive as necessary for the project. Preliminary plans will be submitted to the City of Miller for review and approval.
3. SPN will assist the Client in applying for any permits necessary for the project.

Mayor Tom McGough  
July 17, 2023  
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#### LAND SURVEY/PLATTING PHASE SERVICES

1. The Client has stated that property pins are already present at existing property corners. Land Survey/Platting Phase Services are specifically excluded from this Letter of Agreement.

#### BIDDING PHASE SERVICES

1. Bidding Phase Services are specifically excluded from this Letter of Agreement.

#### CONSTRUCTION PHASE SERVICES

1. The services of a resident project representative for on-site project observations are specifically not included in this Letter of Agreement.
2. During the Construction Phase of the Project, SPN will:
  - a) Provide the necessary staking and benchmark information for locating the work necessary for construction.

The duties and responsibilities of SPN may be amended and supplemented by an amendment to this Agreement.

SPN intends to render the services under this Agreement in accordance with generally accepted professional practices for the intended use of the Project and makes no warranty either expressed or implied.

**Compensation:** It is proposed that compensation for services as described above shall be as follows:

1. For the Design Phase Services as described above, compensation shall be a lump sum of **\$12,500.**
2. Because SPN and the Client recognize the difficulty of estimating the required man-hours for the Construction Phase Services described above, it is hereby agreed and understood that a "fixed lump sum fee" has not been established for the work to be performed. The compensation for services described shall be on the basis of the hourly rates plus reimbursable expenses in effect at the time the work is completed. For purposes of establishing a project budget, an amount of **\$3,500** has been estimated for this portion of the Scope of Work.

The Client agrees to compensate SPN for Additional Services which are defined as those not specifically described in the Scope of Work as set forth above and performed as directed by the Client in connection with the project. The Client hereby agrees to compensate SPN for the actual costs incurred on the basis of the hourly rates and charges in effect at the time the services are performed.

Costs of independent consulting and testing services are not included in the above estimates and will, if deemed necessary and authorized by the Client, be invoiced at actual cost incurred plus an assumed risk fee of 10% of the incurred cost.

**Billings & Payments:** Invoices for the services of SPN shall be submitted, at SPN's option, either upon completion of such services or on a monthly basis. Invoices shall be due and owing within thirty (30) days of the invoice date. Past due amounts owed shall include a monthly service charge of 1.5% on the then unpaid balance. In the event any portion or all of an account remains unpaid ninety (90) days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

Invoices and billings submitted by SPN shall not be subject to the retainage or withholding provisions in any contract the Client may have with other parties.

**Client's Responsibilities:** The Client's representatives shall receive and examine documents submitted by SPN, interpret and define the Client's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of SPN's services.

The Client shall furnish to SPN:

- a) All existing studies, reports, maps, plans, specifications and other available data, information and requirements pertinent to the Project.
- b) All such soils investigations and evaluations performed by a professional geotechnical engineer as may be required to design the civil site improvements.
- c) All laboratory tests, air and water pollution tests, reports and inspections of samples, materials or other items required by law or by governmental authorities having jurisdiction over this Project.
- d) All permits and approvals from all governmental authorities having jurisdiction over this Project and from others as may be necessary for completion of the Project.

The Client shall furnish above at the Client's expense and in such manner that SPN may rely upon them in the performance of our services under this Agreement.

The Client shall compensate SPN for services rendered under this Agreement.

**Site Access:** The Client shall obtain all ownership of property or easements, rights-of-way and permits as may be necessary and/or shall guarantee full and free access for SPN to enter upon all public and private property required for the performance of SPN's services under this Agreement. SPN will take precautions to minimize damage due to these activities. The Client shall be responsible for any damage that may be caused and costs of restoration.

**Dispute Resolution:** Should litigation or arbitration occur between the two parties relating to the provisions of this Agreement, all litigation or arbitration expenses, collection expenses, witness fees and court costs incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.

**Indemnification:** To the fullest extent permitted by law, the Client shall indemnify and hold harmless SPN, SPN's officers, directors, partners and employees and SPN's Consultants from and against any and all costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of the Client or the Client's officers, directors, partners, employees and the Client's Consultants in the performance and furnishing of SPN's services under this Agreement.

SPN is not nor shall it be considered to be a party to or subject to the conditions of any other agreement the Client may have with any other party in connection with this Project.

**Certifications:** SPN shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence that SPN cannot ascertain.

**Limitation of Liability:** The Client and SPN have evaluated their risks, rewards and benefits of the Project and SPN's fees for services to be performed. The risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, SPN's total liability to the Client and to any other individual or entity claiming by, through or under the Client any cost, loss or damages caused wholly or in part due to SPN's professional negligent acts, errors, or omissions, such that the total aggregate liability of SPN to those named shall not exceed One Hundred Thousand Dollars (\$100,000) or SPN's total fee for services rendered on this Project, whichever is greater.

**General Conditions:** Neither party shall hold the other responsible for damages or delays in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

**Termination of Services:** If the Client fails to make payments due SPN within the thirty (30) day period set forth above, SPN may, after giving seven days written notice to the Client, and without waiving any claim or right against the Client and without liability whatsoever to the Client, suspend or terminate services under this Letter of Agreement.

This Letter of Agreement may be terminated for any reason by either party by seven days written notice. If this Agreement is terminated, SPN shall be paid for services performed to the termination notice date including Reimbursable Expenses.

**Ownership of Documents:** All studies, reports, and other work products of SPN for this Project are instruments of service for the Project only and shall remain the property of SPN whether the Project is completed or not. The Client may make and retain copies for information and reference in connection with the use and occupancy of the Project by the Client and others. However, such documents are not intended or represented to be suitable for reuse by the Client or others on extensions of the Project or on any other project. Any such use without written verification or adaptation by SPN for the specific purpose intended will be at the Client's sole risk and without

Mayor Tom McGough  
July 17, 2023  
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liability or legal exposure to SPN and the Client shall indemnify and hold harmless SPN and their consultants and each of their officers, agents, and employees from any and all liability claims, losses, damage and expenses, including attorney's fees, arising out of or resulting therefrom.

**Acceptance/Notice to Proceed:** By signing this Letter of Agreement the Client accepts the terms and conditions as set forth herein and hereby authorizes SPN to proceed with the performance of the services as set forth herein effective the date of this letter.

CITY OF MILLER  
MILLER, SOUTH DAKOTA

SPN AND ASSOCIATES INC  
MITCHELL, SOUTH DAKOTA

By: \_\_\_\_\_

By: [Signature]

Title: \_\_\_\_\_

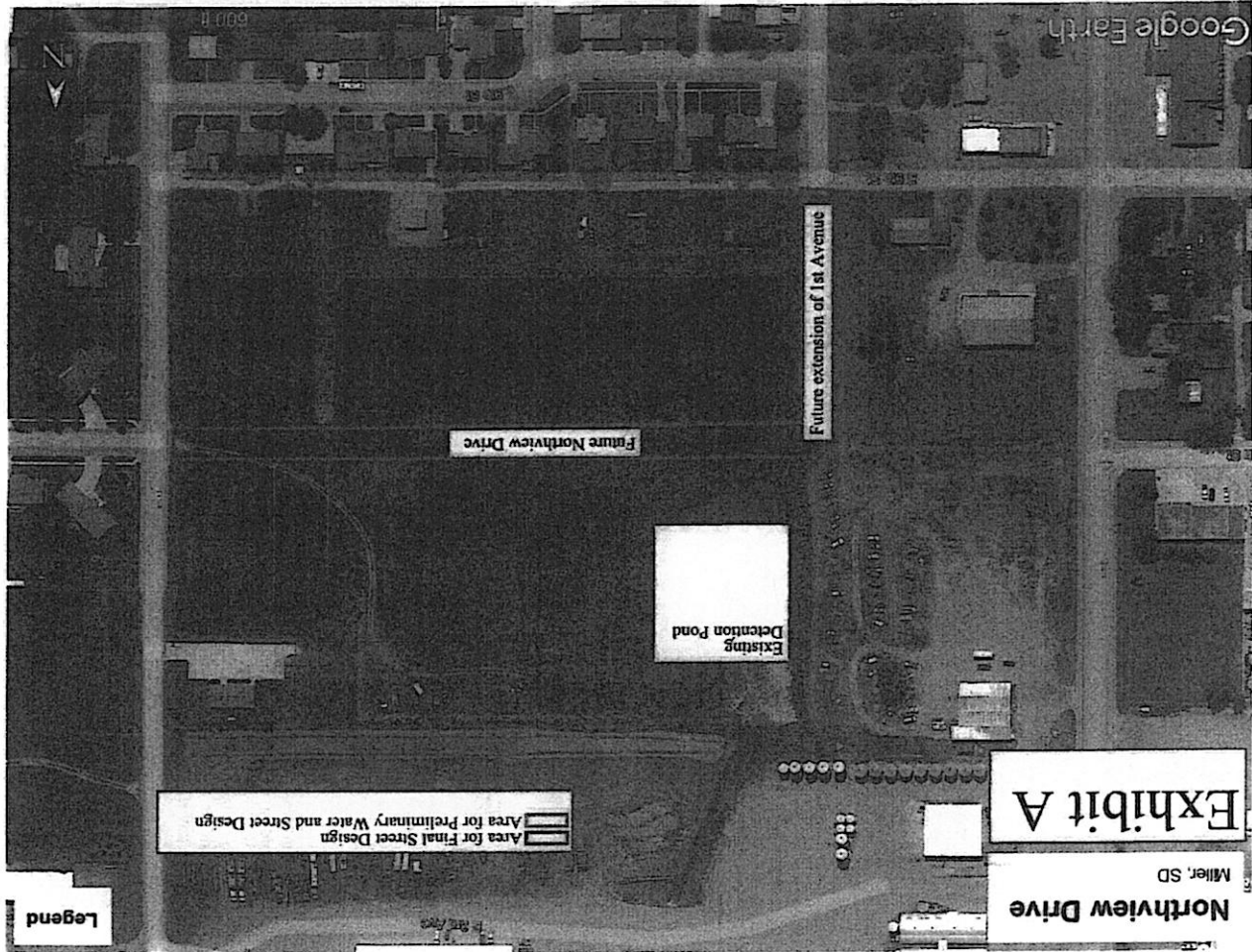
Title: Project Manager / Associate

ATTEST

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_



# SPN & ASSOCIATES

ENGINEERS & SURVEYORS

## INVOICE

**Schmucker, Paul, Nohr and Associates**  
 2100 North Sanborn Blvd — PO Box 398  
 Mitchell SD 57301-0398  
 Phone (605) 996-7761  
 Fax (605) 996-0015  
 www.spn-assoc.com

TO: CITY OF MILLER  
 120 WEST 2ND  
 MILLER, SD 57362

Invoice Date	Invoice Num
Jul 31, 2023	31833
Billing Through Jul 29, 2023	

RE: M15318:06WW  
 MILLER PHASEIII RPR - WASTE WATER

Construction observation and testing.  
 Billing period 6/25/23 thru 7/29/23

TECHNICIAN I

Hours	Rate	Amount
38.50	\$145.00	\$5,582.50
Total Service Amount:		<u>\$5,582.50</u>
131.00 @	\$0.88	\$114.82
		\$114.00
Total Expenses:		<u>\$228.82</u>
Amount Due This Invoice:		<u>\$5,811.32</u>

**Reimbursable Expenses:**

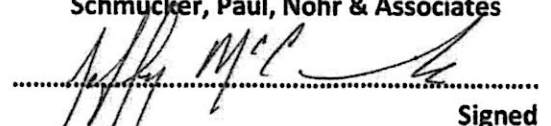
MILEAGE  
 MEALS

**VERIFICATION OF CLAIM**

I declare and affirm under the penalties of perjury that this claim has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Dated this 2<sup>nd</sup> day of August 2023

Schmucker, Paul, Nohr & Associates

  
 Signed

Due upon receipt. Overdue accounts will be assessed a 1.5% monthly finance charge from the date of billing until the account is paid in full.



**Contractor's Application for Payment**Application No.: **Three**

Owner:	<u>City of Miller, SD</u>	Engineer's Project No.:	<u>16164</u>
Engineer:	<u>SPN and Associates</u>	SDDOT Project No.:	<u>CA 022F PCN 08UP</u>
Contractor:	<u>TLC Olson Construction LLC</u>		
Project:	<u>Miller East 4th Street Improvements</u>		

Application Date: July 28, 2023Application Period: From June 25, 2023 to July 28, 2023

1. Original Contract Price	\$	575,043.60
2. Net change by Change Orders	\$	-
3. Current Contract Price (Line 1 + Line 2)	\$	575,043.60
4.a Total Work Completed	\$	562,494.63
4.b Materials Stored to Date	\$	-
4.c Less Value of Non-conforming Work		
5. Retainage		
a. <u>5%</u> X <u>\$ 562,494.63</u> Work & Materials	\$	28,124.73
b. _____ X _____ Work & Materials	\$	-
c. Total Retainage (Line 5.a + Line 5.b)	\$	28,124.73
6. Amount eligible to date (Line 4.a + 4.b - 4.c - Line 5.c)	\$	534,369.90
7. Less previous payments (Line 6 from prior application)	\$	241,028.51
8. Amount due this application	\$	293,341.39
9. Balance to finish, including retainage (Line 3 - Line 6)	\$	40,673.70

**Contractor's Certification**

The undersigned Contractor certifies, to the best of its knowledge, the following:

- (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;
- (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and
- (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

**Contractor Approval**Signature: *TLC Olson* Date: 7/30/23**Recommended by Engineer**By: *Camden HL*  
Title: Project Engineer  
Date: 8/3/23**Approved by Owner**By: \_\_\_\_\_  
Title: Mayor  
Date: \_\_\_\_\_**Approved by Funding Agency**By: \_\_\_\_\_ Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

Owner:	City of Miller	Engineer's Project No.:	16164
Contractor:	TLC Olson Construction	SD DOT Project No.:	CA 022F PCN 08UP
Engineer:	SPN & Associates Inc		
Project:	East 4 <sup>th</sup> Street Improvements		

**This Certificate of Substantial Completion applies to:**

☒ All Work ☐ The following specified portions of the Work:

July 18, 2023

**Date of Substantial Completion**

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows:

Amendments to Owner's responsibilities: ☒ None ☐ As follows

Amendments to Contractor's responsibilities: ☒ None ☐ As follows

The following documents are attached to and made a part of this Certificate: **Punch List Dated July 28, 2023.**

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

<b>EXECUTED BY ENGINEER:</b>		<b>RECEIVED:</b>		<b>RECEIVED:</b>	
By: <u>Carson HL PE</u>	By: _____	By: <u>Sammy Olson</u>			
(Authorized signature)	Owner (Authorized Signature)	Contractor (Authorized Signature)			
Title: <u>Project Engineer</u>	Title: <u>Mayor</u>	Title: <u>Owner</u>			
Date: <u>8/3/23</u>	Date: _____	Date: <u>7/30/23</u>			



## INVOICE

**TO:** CITY OF MILLER  
 120 WEST 2ND  
 MILLER, SD 57362

Invoice Date	Invoice Num
Jul 31, 2023	31852
Billing Through Jul 29, 2023	

**RE:** M16164:06  
 MILLER EAST 4TH STREET IMPROVEMENTS- CONST

East 4th Street Improvements: construction staking, construction observation, material testing and project coordination.

Billing period 6/25/23 thru 7/29/23

	Hours	Rate	Amount
CLERICAL I	4.25	\$95.00	\$403.75
LAND SURVEYOR I	0.50	\$185.00	\$92.50
PROJECT ENGINEER III	3.75	\$160.00	\$600.00
PROJECT ENGINEER IX	1.75	\$110.00	\$192.50
SENIOR ENGINEER	12.25	\$185.00	\$2,266.25
TECHNICIAN III	3.50	\$130.00	\$455.00
TECHNICIAN VII	0.25	\$105.00	\$26.25
TECHNICIAN X	1.75	\$85.00	\$148.75

**Total Service Amount:** \$4,185.00

**Reimbursable Expenses:**

LODGING  
 MILEAGE  
 MEALS

1,246.00 @ \$0.58 \$678.90  
 \$722.68  
 \$556.00

**Total Expenses:** \$1,957.58

**Amount Due This Invoice:** \$6,142.58

*This invoice is due upon receipt*

**VERIFICATION OF CLAIM**

I declare and affirm under the penalties of perjury that this claim has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Dated this 2<sup>nd</sup> day of August 2023

**Schmucker, Paul, Nohr & Associates**

*[Signature]*  
 Signed

Due upon receipt. Overdue accounts will be assessed a 1.5% monthly finance charge from the date of billing until the account is paid in full.