

## HUGHES COUNTY CONTRACT

South Dakota Association of County  
Commissioners  
211 East Prospect Avenue  
Pierre, South Dakota 57501

Hughes County  
104 East Capitol Avenue  
Pierre, South Dakota 57501

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Referred to as SDACC

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Referred to as Hughes County

Hughes County, South Dakota, hereby enters into this agreement (Agreement) to provide snow removal services to the South Dakota Association of County Commissioners (SDACC) in consideration of and pursuant to the terms and conditions set forth herein.

1. SCOPE OF SERVICES:

Hughes County will provide snow removal services for SDACC's office located at 211 East Prospect Avenue, Pierre, South Dakota. Such services include removing snow from the main driveway, front step(s), sidewalk from the front door to the city sidewalk, plus the city sidewalk in front of the building.

Services will be provided after the removal of snow from the Hughes County Courthouse. SDACC is responsible for clearing all trace snowfall and for maintaining cleared areas, including the use of deicing. SDACC acknowledges that continued snowfall may not be cleared until the following day and that weather events may delay Hughes County from completing the services under this Agreement.

2. PERIOD OF PERFORMANCE:

This Agreement shall be effective on October 1, 2024, and end on May 1, 2025, unless sooner terminated pursuant to the terms hereof.

3. CONTRACT AMOUNT AND PAYMENT:

SDACC will make payment for services in the amount of \$225. Payments will be made after receipt of invoices submitted to SDACC and paid by the 15<sup>th</sup> of the following month.

4. IDEMNIFICATION:

SDACC agrees to indemnify Hughes County, its officers, agents, and employees, from and against all claims or proceedings for actions, suits, damages, liabilities, other losses or equitable relief that may arise at least in part as a result of an act or omission in

performing services under this Agreement. SDACC shall defend Hughes County, its officers, agents, and employees against any claim, including any claim, action, suit, or other proceeding related to the claim. SDACC's obligation to indemnify includes the payment of attorney fees and other costs of defense. In defending Hughes County, its officers, agents, and employees, SDACC shall engage other professionals, subject to the written approval of Hughes County which shall not be unreasonably withheld. Notwithstanding the foregoing, Hughes County may, in its sole discretion and at the expense of SDACC, engage attorneys and other professionals to defend Hughes County, its officers, agents, and employees, or to assist SDACC in the defense.

5. INSURANCE:

At all times during the term of this Agreement, the SDACC shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

A. Commercial General Liability Insurance:

SDACC shall maintain occurrence-based commercial general liability insurance or equivalent form of coverage with a limit of not less than one million dollars (\$1,000,000) for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit. The insurance policy shall name Hughes County, its officers and employees, as additional insureds, but liability coverage is limited to claims not barred by sovereign immunity. Hughes County, its officers and employees do not hereby waive sovereign immunity for discretionary conduct as provided by law.

B. Worker's Compensation Insurance:

SDACC shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, SDACC shall furnish Hughes County with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement including naming Hughes County, its officers and employees, as additional insureds, as set forth above. In the event of a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, SDACC agrees to provide immediate notice to Hughes County and provide a new certificate of insurance showing continuous coverage in the amounts required. SDACC shall furnish copies of insurance policies if requested by Hughes County.

6. REPORTING EVENT:

SDACC and Hughes County agree to report to each other any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject SDACC or Hughes County to liability.

7. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice.

8. SURVIVAL FOLLOWING TERMINATION:

Any terms of this Agreement that would, by their nature or through the express terms of this Agreement, survive the expiration or termination of this Agreement shall so survive including but not limited to the terms of section Indemnification and section Controlling Law.

9. NOTICE:

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the County Manager on behalf of Hughes County, and by and to, Executive Director, on behalf of SDACC, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

10. CONTROLLING LAW AND VENUE:

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

11. THIRD PARTY BENEFICIARIES:

This Agreement is intended to govern only the rights and interests of the parties named herein. It is not intended to create, does not and may not be relied upon to create, any rights, substantive or procedural, enforceable at law by any third party in any matters, civil or criminal.

12. ASSIGNMENT AND AMENDMENT:

This Agreement may not be assigned without the express prior written consent of the parties. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof and be signed by an authorized representative of each of the parties hereto.

13. SEVERABILITY:

In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

14. SUPERCESSION:

All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

15. FORCE MAJEURE:

Notwithstanding anything in this Agreement to the contrary, neither party shall be liable for any delay or failure to perform under the terms and conditions of this Agreement, if the delay or failure is caused by war, terrorist attacks, riots, civil commotion, fire, flood, earthquake or any act of God, or other causes beyond the party's reasonable control provided, however, that in order to be excused from delay or failure to perform, the party must act diligently to remedy the cause of such delay or failure and must give notice to the other party as provided in this Agreement as soon as reasonably possible of the length and cause of the delay in performance.

16. WAIVER OF BREACH:

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision in this Agreement.

17. HEADINGS:

The headings in this Agreement are for convenience and reference only and shall not govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

18. AUTHORITY TO EXECUTE:

The execution, delivery and performance of this Agreement has been duly authorized by the parties.

19. SOVEREIGN IMMUNITY:

Nothing in this Agreement is intended to constitute a waiver of sovereign immunity by or on behalf of Hughes Count, its agencies, officers or employees.

20. COUNTERPART:

This Agreement may be executed in one or more counterparts, including by the way of .pdf (portable document format) file or other electronic means (such as DocuSign or Adobe eSign), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

HUGHES COUNTY

SDACC

Sign: 

Print Name: Thomas T Rounds

Title: HUGHES CO. CHAIR

Date: Nov 18, 2024

Sign: 

Print Name: Kristie Jacobsen

Title: Executive Director

Date: Nov 14, 2024