

THE LINCOLN COUNTY BOARD OF COMMISSIONERS was brought to order by the Chair, Tiffani Landeen, at 8:30 a.m. on October 25, 2022, with Commissioners Jim C. Jibben and Jim Schmidt present and Commissioner Michael Poppens via telephone. Deputy Auditor Shaun Feilmeier served as Clerk of the Board. William Golden, Chief Civil Deputy State's Attorney, was also present.

ROUTINE BUSINESS:

MOTION by Schmidt and seconded by Jibben to approve the agenda. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

Claims: \$1,144,927.55

General: Metlife, Employee Life Insurance \$324.71; Argus Leader/Multimedia Holding Inc., Publishing \$439.99; Lennox Independent Llc, Publishing \$1,272.72; Ramkota Hotel-Pierre, Travel-Lodging \$1,089.00; Midco, Phone/Video \$1,478.13; Greater Sioux Falls Chamber Of Commerce, Membership Dues \$416.00; Sdacc, Clerp Reimbursement \$6.70; Nicholson Law, Court Appt Atty- Juv \$353.50; Griesse Law Firm, Pc, Court Appt Atty- Juv \$292.90; Laughlin, Nicole, Crt Appt Atty- Juv \$914.90; Certified Languages International, Interpreters \$110.55; Guzman, Sandra, Interpreter \$975.00; Osborn, Roxane, Transcript \$136.00; Skorczewski, Jena, Transcript \$577.70; Interstate Office Products, Supplies/Privacy Screen/Table \$1,590.66; Beck, Pat, Gj Transcript \$41.00; Thomson Reuters-West Publ Corp, Online Software/Library Plan \$740.24; Paragon Health & Wellness, Blood Draws \$1,800.00; Cassel Meyer, Mary Anne, Gj Transcript \$68.00; G & R Controls Inc, Hvac Maint/Boiler Repair \$5,447.37; Olson's Pest Technicians, Insect And Rodent Control - Courthouse & Storage \$375.00; Dakota Supply Group, Plumbing Supplies \$90.45; Graybar Electric Co., Light Bulbs \$272.45; Cintas, Rug Replacement And Cleaning – Courthouse \$173.61; Sd Div Of Motor Vehicle, Title, Plates, Postage \$38.40; Lamb Motor Co, New Ford F-150 \$28,745.00; Kirbsey Car Wash, Car Wash \$61.00; Clubhouse Hotel & Suites – Pierre, School In Pierre For 8 Assessors \$7,802.40; Przybilla, April, Gas On 10-13-2022 \$15.00; Schneider Geospatial, Llc, Beacon/Publicptm Portal \$25,018.00; Happy Fox Inc, Helpdesk \$5,616.00; Century Business Products, Copier \$2,939.23; Riverside Technologies Inc, Firewall \$14,427.00; Cdw-G Inc, Zebra Cradle \$361.05; Optum Bank, Hsa Monthly Maint Fee-Sept \$30.25; Sioux Falls Area Humane Society, County Contract- September 2022 \$983.18; Centralsquare Technologies, Field Ops Sbscrptn/Comm Invlmnt Portal \$4,760.07; Auto Dynamics Inc, Oil Changes/Rotate Tires \$237.82; Sturdevant's Auto Parts, Wiper Blades, Battery Charger \$152.43; Fee, Don, Installation Of Equipment \$4,250.00; Sioux Falls Ford Lincoln, 21-2, Transmission Shifting Issues \$173.26; B & E Autoworx Llc, 22-1 Oil Change 10-13-22 \$79.95; Dave's Service & Repair, 20-3, Rotors, Brakes, Service, Tire Rotation \$544.91; Two Way Solutions Inc, Equip Programming, Power Supply, Mic \$1,060.40; Motorola Inc, 7-Radios, Accessories \$24,405.36; Frantzen Reporting/Pgr8r Inc, Transcription \$46.60; Jack's Uniforms & Equipment, Uniform/Equipment \$1,503.82; Axon Enterprise Inc, 7-Taser Bundle, Cartridges \$23,179.84; Nartec Inc, Methamphetamine Test Ampules \$361.54; Northern Safety Technology, Inc, 21 Chev Tahoe-Jotto Single Cell \$1,206.43; Stroschein, Leah, Reimbursement-Hotel \$222.00; Pennington Co Jail, Inmate Transportation - Sept 2022 \$375.05; Clay County Sheriff's Office, Inmate Room/Board-Gabriel Person \$70.00; Anesthesiology Assoc Inc, Prisoner Care \$233.16; Buddi Us Llc, Tagging Days \$1,108.00; Karl Chevrolet, 23-1, Chev Tahoe 1gnskledxpr169908 \$41,382.00; Sanford Health, Autopsy \$2,200.00; Minnehaha Co Regional Jdc, Chld/Shltr Cre/Comm Spvrns \$19,692.00; Dakotabilities Inc, 6cl- Oct/Nov/Dec 2022 \$1,080.00; Ver Beek Law Prof Llc, Mi Board Chair- September \$1,923.04; Miller, Francie, Mi Board Hearing \$80.00; Anderson, Jennifer Marie, Mi Evals \$2,282.46; Salem Qmhp, Karla, Mi Evals \$1,100.00; Loving, Philip, Mi Evals \$3,483.41; Gates, Laurie, Mi Hearing \$64.00; Rent-All Inc, Equipment Rental Deck/Stage Sander \$100.72; Maendel, Jayda, Post Event Cleaning \$100.00; Menards-West, Mouse Bait Stations, Traps, And Poison \$103.95; Knife River, Landscaping Rock - 3/4" \$116.91; City Of Canton, Refuse From Old 4-H Grounds \$10.00; Albers Electric Llc, Placed Tie-In For Xcel Energy And Ran Panel \$4,910.02; Delta Dental, Fmla Dental Insurance \$45.90; Fidelity Security Life Insurance

Company Corp, Fmla Vision Insurance \$7.67; United Healthcare Premium Billing, Fmla Health Insurance \$248.02; Canton Home & Farm Supply, Antifreeze \$11.97; Imeg Corp, Imeg Plat Review \$700.00; Hogan, Wendi, Mileage 10/17/2022 \$13.27; Enstad, Collin, Mileage 10/17/2022 \$18.14; Jongeling, Jerry, Mileage 10/17/2022 \$15.71; Green, Scott, Mileage 10/17/2022 \$16.80; Poppens, Michael, Mileage 10/17/2022 \$15.62; Quadient Finance Usa, Inc, Postage/Ink \$4,359.65; Postmaster, Postage Due Trust-Courthouse \$100.00 Road And Bridge: Metlife, Employee Life Insurance \$41.86; Emc Insurance Companies, Claim \$724.19; North Central Rental & Leasing Llc, 8-Day Equip Rental \$11,575.92; Transource, Repairs \$5,197.40; Graham Tire Co Llc-Corp, Field Tire Repair/Grader Tire \$7,005.82; Argus Leader/Multimedia Holding Inc, Publishing \$29.45; Lennox Independent Llc, Publishing \$39.76; Fastenal Company, Supplies \$105.18; Cintas, Towels, Mats \$78.91; Canton Home & Farm Supply, Supplies \$17.99; Midway Service/Vollan Oil, Diesel \$14,736.17; Diesel Machinery Inc, Parts \$45.40; Pedersen Machines Inc, Parts \$487.76; City Of Sioux Falls Public Works, Rubble \$17.22; Butler Machinery Co, Parts, \$220.73; Midco, Phone/Video \$77.74; Presto-X, Pest Control \$494.94; Xcel Energy, Rab Light \$69.15; Jfi Inc, Road Salt \$2,033.69; Imeg Corp, Project Costs \$16,234.78; Astech Corp, 2022 Microsurfacing \$831,456.81; Knife River, Asphalt \$406.80 911: Metlife, Employee Life Insurance \$32.89; Innovative Office Solutions Llc, Office Supplies \$95.40; Midco, Phone/Video \$222.88 Ems: Metlife, Employee Life Insurance \$0.75; Midco, Phone/Video 4111.13 Airport: A-1 Pumping & Excavating Inc, Pump Holding Tank \$160.00 24/7: Metlife, Employee Life Insurance \$2.99; Midco, Phone/Video \$28.85

Payroll: \$342,293.40

Commissioner's \$5,248.00; FICA 310.72, Medicare 72.66
Elections \$1,950.00; FICA 120.90, Medicare 28.28
Auditor's \$12,644.31; FICA 669.70, Medicare 156.63, SDRS 758.65
Treasurer's \$19,507.85; FICA 1,124.64, Medicare 263.01, SDRS 1,170.47
States Attorney's \$51,799.92; FICA 2,920.06, Medicare 682.93, SDRS 3,040.05
Gen Gov Bldg \$15,459.84; FICA 861.49, Medicare 201.47, SDRS 912.60
DOE \$35,263.81; FICA 2,006.90, Medicare 469.35, SDRS 2,059.11
ROD \$7,702.61; FICA 417.25, Medicare 97.57, SDRS 420.96
VSO \$2,376.21; FICA 121.18, Medicare 28.34, SDRS 142.57
GIS \$5,716.40; FICA 314.06, Medicare 73.45, SDRS 342.98
IT \$9,051.00; FICA 535.45, Medicare 125.22, SDRS 543.06
Sheriff's \$93,828.06; FICA 5,482.51, Medicare 1,282.22, SDRS 6,742.86
County 4-H \$2,076.42; FICA 128.74, Medicare 30.11, SDRS 124.59
Weed Control \$4,336.00; FICA 265.91, Medicare 62.19, SDRS 260.16
P & Z \$12,409.00; FICA 749.00, Medicare 175.18, SDRS 744.54
Highway \$31,953.12; FICA 1,789.06, Medicare 418.40, SDRS 1,920.05
Communications \$25,754.05; FICA 1,473.49, Medicare 344.61, SDRS 1,545.22
EM MGMT \$3,368.80; FICA 186.44, Medicare 43.60, SDRS 203.57
24/7 \$1,848.00; FICA 107.34, Medicare 25.10, SDRS 147.84

Reports:

Handouts from the Opportunity for Public Comment on 10.11.2022 were presented.

Letters from the South Dakota Department of Agriculture & Natural Resources regarding Revised Nutrient Management Plans were presented.

The Water Management Board Notice of Public Hearing to Adopt Rules was presented.

The Third Quarter 2022 Human Services report was presented.

The East Dakota Water Development District Board of Directors draft minutes of 09.15.2022 meeting were presented.

The September 2022 Clerk of Courts report totaling \$42,323.82 was presented.

Mileage reports were presented as follows: September 2022 Patrol mileage report, September 2022 Assessor's Office mileage report.

Deputy Auditor Shaun Feilmeier answered a question regarding fee amounts for alcoholic beverage license renewals on the consent agenda.

MOTION by Jibben and second by Schmidt to approve the Consent Agenda. Jibben: "Aye" Landeen: "Aye". Motion carried.

CONSENT AGENDA:

MOTION by Jibben and second by Schmidt to approve the Commission Minutes: 10.11.2022. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve the hire of Traci Humphrey as the full-time Human Resources Director for Human Resources at Grade 114, Step 3, \$3,396.80 biweekly, effective 10.24.2022. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve the hire of Kari Gackle as a full-time paralegal for the State's Attorney's Office at Grade 107/Step 3 at \$24.11/hr effective 10.24.2022. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve the termination of employment of Jessica Ortman 4-H Administrative Secretary effective 10.20.2022. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve out-of-State travel for two employees of the Lincoln County Sheriff's Office to travel to Washington DC, 04.03-08.2023, for the National Sheriff's Association Winter Conference. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to authorize Auditor to Execute the Application for Replacement Warrant submitted by Absolute Zero Refrigeration for the amount of \$177.50; original warrant number 31503 issued 04.25.2022. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to approve the 2022-2023 renewal of Uniform Alcoholic Beverage Applications as follows: Sky Dine Inc (RL-5201) at Lot 1 SE ¼ (exH-2-3) & S 50' E 1007.10' Muellers Lot 2 and Lot A in H-2 SE 1/4 19-100-50; Lenkota Country Club (RL-5714) at 65.65 AC Lying W of Hwy 44 EX RR & Tr in SE ¼ 31-99-51; Spring Creek Country Club (RL5893) at NW ¼ NW ¼ 26-100-49; The Canton Barn LLC (RL-24411) at Lot A and M.k. Tract 1, an addition in the E ½ of the SE ½ of the SE ¼ of Section 11, T98n, R49W; The Good Earth Farm LLC (RW-27455) at Kroger's Addition Tract 2C, NW1/4, 28-98-51. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

REGULAR BUSINESS:

SECOND PUBLIC HEARING & SECOND READING was held for an ordinance of Lincoln County Regarding the Issuance of Local Medical Cannabis Establishment Permits by Amending Ordinance 2106-30. William Golden, Chief Civil Deputy State's Attorney, presented proposed changes to the ordinance and answered questions from the Board. The only public testimony was from a 605 Cannabis

representative regarding changes they would rather see. Golden addressed the concerns brought up in this testimony.

ORDINANCE OF LINCOLN COUNTY REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS BY AMENDING ORDINANCE 2106-30

WHEREAS, the State of South Dakota permits the sale and consumption of medical cannabis pursuant to South Dakota Codified Law (“SDCL”) Chapter 34-20G, and

WHEREAS, pursuant to SDCL § 34-20G-55, county government may require a local registration license or permit for a medical cannabis establishment to operate within that county, and

WHEREAS, pursuant to SDCL § 34-20G-58, county government may enact ordinances or regulations governing the time, place, manner, and number of licensees operating within its jurisdiction; and

WHEREAS, pursuant to SDCL § 34-20G-58, county government may establish civil penalties for violation of an ordinance governing the time, place, and manner of medical cannabis establishments that operate locally, and

WHEREAS, under the provisions of SDCL §34-20G-60, county government may require a medical cannabis establishment to obtain a county license, permit, or registration prior to operating, and may charge a reasonable fee for that license, permit, or registration, and

WHEREAS, the County believes that regulation of medical cannabis is necessary for the health and safety of this community SDCL § 7-18A-8; then and therefore,

WHEREAS the State of South Dakota permits the sale and consumption of cannabis pursuant to South Dakota Codified Law and medical cannabis establishments licensed under this ordinance may sell cannabis for adult use so long as they comply with the provisions of the Department of Health.

BE IT ORDAINED BY THE LINCOLN COUNTY COMMISSSION AS FOLLOWS:

Ordinance 2106-30 be amended to read as follows.

Section 1: Definitions.

The terms and definitions found in SDCL § 34-20G-1 are specifically adopted for the purpose of this Ordinance. Specifically,

- (1) “Allowable amount of cannabis,” means:
 - a. Three ounces of cannabis or less;
 - b. The quantity of cannabis products as established by rules promulgated by the department under SDCL § 34-20G-22;
 - c. If the cardholder has a registry identification card allowing cultivation, two flowing cannabis plants and two cannabis plants that are not flowering; and
 - d. If the cardholder has a registry identification card fallowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder’s allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated.
- (2) “Background check” means a criminal background investigation by means of a fingerprint check by the Division of Criminal Investigation pursuant to SDCL § 34-20G-61. A completed fingerprint card shall be submitted to the Lincoln County Sheriff’s Office or other South Dakota law enforcement agency. Upon completion of the criminal background investigation, the Division of Criminal Investigation shall forward to the County all information obtained as a result of the criminal background investigation.
- (3) “Bona fide practitioner-patient relationship” means:
 - a. A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient’s

- medical history and current medical condition, including an appropriate in-person physical examination;
- b. The practitioner has consulted with the patient with respect to patient's debilitating medical condition; and
 - c. The practitioner is available to or offers to provide follow-up care and treatment to the patient, including patient examinations.
- (4) "Cannabis products," means any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.
- (5) "Cannabis product manufacturing facility," means an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary.
- (6) "Cannabis testing facility" or "testing facility," means an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis.
- (7) "Cardholder," means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card.
- (8) "Cultivation facility," means an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment.
- (9) "Debilitating medical conditions," means:
- a. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
 - b. Any other medical condition or its treatment added by the department, as provided for in SDCL § 34-20G-26.
- (10) "Department," means the South Dakota Department of Health.
- (11) "Designated caregiver," means a person who:
- a. Is at least twenty-one years of age;
 - b. Has agreed to assist with qualifying patient's medical use of cannabis;
 - c. Has not been convicted of a disqualifying felony offense; and
 - d. Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed.
- (12) "Disqualifying felony offense," means a violent crime that was classified as a felony in the jurisdiction where the person was convicted.
- (13) "Edible cannabis products," means any product that:
- a. Contains or is infused with cannabis or an extract thereof;
 - b. Is intended for human consumption by oral ingestion; and
 - c. Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products.
- (14) "Enclosed, locked facility," means any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only

- by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation.
- (15) “Medical cannabis” or “cannabis,” means marijuana as defined in SDCL § 22-42-1.
 - (16) “Medical cannabis dispensary” or “dispensary,” means an entity registered with the South Dakota Department of Health pursuant to SDCL § 34-20G that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.
 - (17) “Medical cannabis establishment,” means a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary.
 - (18) “Medical cannabis establishment agent,” means an owner, officer, board members, employee, or volunteers at a medical cannabis establishment.
 - (19) “Medical use,” includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptom associated with the patient’s debilitating medical condition. The term does not include:
 - a. The cultivation of cannabis by a nonresident cardholder;
 - b. The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the card holder’s registry identification card; or
 - c. The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility.
 - (20) “Nonresident cardholder,” means a person who:
 - a. Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority the consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;
 - b. Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;
 - c. Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and
 - d. Has submitted any documentation required by the department, and has received confirmation of registration.
 - (21) “Practitioner,” means a physician who is licensed with authority to prescribe drugs to humans pursuant to SDCL § 36-4. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient’s residence.
 - (22) “Qualifying patient,” means a person who has been diagnosed by a practitioner as having a debilitating medical condition.
 - (23) “Registry identification card,” means a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to SDCL § 34-20G-29 to SDCL § 34-20G-42 inclusive, and
 - (24) “Written certification,” means a document that dated and signed by a practitioner, stating that in the practitioner’s professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the

patient's debilitating medical condition or symptom associated with the debilitating medical condition. This document shall affirm that is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition.

Section 2: Operation of Medical Cannabis Establishments in Lincoln County.

Hours of Operation

- (1) The public shall only be permitted during 8 a.m. to 10 p.m. Employees are not restricted access during any time.

Places of Operation.

- (1) Pursuant to SDCL § 34-20G-55, no medical cannabis establishment may operate within one thousand feet (1,000 feet) of a public or private school, including daycare of more than twenty-one (21) children in the establishments.
- (2) All medical cannabis establishments in Lincoln County must be in a facility where access to cannabis can be restricted and secured. All medical cannabis establishments must have written procedures detailing appropriate security measures designed to deter theft of cannabis.
- (3) All medical cannabis establishments must have written procedures detailing how establishment will prevent unauthorized entrance to any area containing cannabis.
- (4) Any cultivation, harvesting, and/or packaging of cannabis must take place in a secure facility at the address on file with Lincoln County as a medical cannabis establishment. This security facility may only be accessed by agents of the medical cannabis establishment, emergency personnel, and adults who are at least eighteen (18) years of age and who are accompanied by a medical cannabis establishment agent.
- (5) A medical cannabis establishment may not produce cannabis concentrates, cannabis extractions or other cannabis products, unless the medical cannabis establishment is also licensed or registered as a cannabis product manufacturer.
- (6) A medical cannabis establishment may not share office space with a practitioner.
- (7) A medical cannabis establishment may not refer a patient to a practitioner.
- (8) Lincoln County may inspect a medical cannabis facility during business hours to ensure compliance with this ordinance.

Security Requirements

All medical cannabis establishments shall have the following security systems at a minimum:

- (1) Electronic security recording system, internal and external, which retains recordings for ninety (90) days;
- (2) Well-lit external parking lot;
- (3) Locked, fully enclosed, facility;
- (4) Internal security to track access to building and all medical cannabis; and
- (5) Any additional security to comply with the requirements of SDCL § 34-20G and the rules of the Department of Health.

Manner of Operation

- (1) Anyone who is a board member, principal officer, agent, volunteer, or employee of a medical cannabis establishment in Lincoln County must have a current and valid background check before working in or with the medical cannabis establishment.
- (2) Any medical cannabis establishment in Lincoln County may not employ any person who has been convicted of a disqualifying felony offense.
- (3) All employees of a medical cannabis establishment in Lincoln County must be over twenty-one (21) years old.

- (4) No medical cannabis establishment may issue cannabis to anyone who is not qualifying patient with a current and valid registry identification card issued by the South Dakota Department of Health or a designated caregiver for a qualifying patient.

Required Signage

Medical cannabis establishment/facility shall have the following signage:

- (1) Warning that operating a motor vehicle while under the influence is a criminal act;
- (2) Stating that re-sale of medical cannabis is prohibited by state law; and
- (3) That medical cannabis may not be used on the premises.

Section 3: Permitted Medical Cannabis Establishment.

In order to operate as a medical cannabis establishment in Lincoln County, the prospective entity must obtain both a permit from Lincoln County and a State registration issued by the South Dakota Department of Health. A county license allows for the operations of one of each of the following (so long as all the facilities reside in the same location): Cannabis product manufacturing facility, Cannabis testing facility, Cultivation facility, and Cannabis dispensary.

Permit Application Procedures:

- (1) All permit requests must be submitted, with the application fee, to the Auditor's Office. A permit decision will be made within sixty (60) days of application.
- (2) The license shall be in effect for two (2) year period.
- (3) A renewal fee shall be paid up to ninety (90) days prior to the expiration of the license.

Permit Application Requirements

A permit application to operate as a medical cannabis establishment requires:

- a. The legal name of the prospective medical cannabis establishment;
- b. The location of the prospective medical cannabis establishment;
- c. A certification that the location of the prospective medical establishment is not within one thousand (1,000) feet of a public or private school, including day care facilities with more than twenty-one (21) children;
- d. The name and date of birth of each principal officer and board member of the prospective medical cannabis establishment;
- e. A certification that none of the employees of the prospective medical cannabis establishment has been convicted of a disqualifying felony offense;
- f. A certification that the employees of the prospective medical cannabis establishment are over the age of twenty-one (21) years;
- g. A current background check for each officer, board member, agent, volunteer, or employee associated with or working in the prospective medical cannabis establishment;
- h. A description of the type of medical cannabis establishment; for example: whether the establishment will operate as a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary;
- i. A copy of the operating documents for the prospective medical cannabis establishment that detail oversight of the establishment and procedures to ensure accurate recordkeeping;
- j. A description of appropriate security measures designed to deter and prevent theft of cannabis and unauthorized entry into any area containing cannabis;
- k. An application fee of \$50,000.00 may be paid in two (2) payments, with half of the fee at the time the application and the remainder in the end of the first year.

License Application – Contents.

Any application for a license as provided in this ordinance shall be made on forms prescribed by the County. The application shall contain information required by the County and necessary to determine the eligibility of the applicant.

Applications submitted to County – Fee – Approval/Disapproval.

Any applicant for a new cannabis establishment/facility, shall submit an application to the County. The applicant shall submit the required fee along with the application. The County may approve the application if the applicant is determined to be suitable to hold the license and the proposed location is suitable. If an application is rejected, the application fee will be refunded minus county costs.

The governing body may reject an application for new medical cannabis establishment/facility if:

- (1) The approval of the application permits a person, corporation, or business entity to possess more than one license in the jurisdiction.
- (2) The governing body determines the applicant has failed to comply with SDCL § 34-20G or has a history of violating the State's rules governing medical cannabis establishments or county ordinances or on zoning regarding medical cannabis establishments.
- (3) Failure to pass a background check.

Any application for the reissuance of a cannabis establishment/facility may be approved by the County without a hearing unless, in the past year, the licensee or one or more of the licensee's employees have been subjected to a criminal penalty for violation of the medical cannabis establishments control law or the license has been suspended.

Agreement by license applicant granting access to premises and records.

Each applicant for a license under this title shall include an agreement by the applicant that the applicant's premises, of the purposes of search and seizure laws of the county ordinances where the license is issued, are considered public premises. In addition, the agreement shall state:

- (1) The premises and all building open to the public shall be open to law enforcement and county officers, for inspection;
- (2) All of the applicant's records and books dealing with the sale and ownership of cannabis establishments/facilities are open to the county officers specified inspection of medical cannabis establishments/facilities; and
- (3) The application and license issued on the application is a contract between the applicant and the County having jurisdiction entitling the county for the purpose of enforcing ordinances, to inspect the applicant's premises and books at any time.

Hearing required before issuance of license.

No license for a medical cannabis establishment may be issued to an applicant until a public hearing has been held.

Character requirements for licensees.

Any licensee shall be a person of good moral character, never convicted of a felony, and, if a corporation, the managing officers of the corporation shall meet the same qualifications.

Ownership or lease of premises required of licensee – Ownership of business.

Any medical cannabis establishment licensee under this title shall be the owner or actual lessee of the premises where the business is conducted, and the sole owner of the business operated under the license.

License nontransferable.

Any medical cannabis establishment license issued in Lincoln County is not transferable to a new owner, business, or other entity. An owner or business which possesses a medical cannabis

establishment license may designate a successor which will be given priority in their application for a new license.

Violation as ground for revocation or suspension of license – Multiple licenses.

The County, in compliance with chapter 1-26, may revoke suspend, or add conditions to any license issued under this ordinance upon proof of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of medical cannabis establishment and their agents or employees operating under a county license, of any of the following:

- (1) Any provision of SDCL § 34-20G;
- (2) Any rule promulgated pursuant to this ordinance; or
- (3) Any ordinance or regulation relevant to cannabis establishment/facility control adopted by the political subdivision issuing the license.

For any licensee with multiple licenses within Lincoln County, upon revoke, suspend, or added conditions of any license pursuant to this ordinance, the licensee may be required to cease operation or comply with added conditions under all medical cannabis establishment licenses held by the licensee for the same premises for the same period as the suspension or revocation. Any violation may be subject to a civil penalty not to exceed \$1,000.00.

Applications submitted to County for renewal – Approval if suitable.

Any renewal application for medical cannabis establishments/facility, may be approved if the County considers the applicant suitable to hold the license and the proposed location suitable. The fee shall be \$20,000.00.

Section 4: Residuals.

- (1) Nothing in this Ordinance permits any person to:
 - a. Undertake any task under the influence of cannabis, when doing so would constitute negligence or unprofessional malpractice;
 - b. Possess cannabis or engage in the medical use of cannabis in any correctional facility;
 - c. Smoke cannabis on any form of public transportation or in any place open to the public;
 - d. Operate, navigate, or be in actual physical control of any motor vehicle aircraft, train, or motorboat while under the influence of cannabis.
- (2) Nothing in this Ordinance requires an employer to allow ingestion or use of cannabis in the workplace or to allow an employee to work while the employee is under the influence of cannabis.
- (3) Nothing in this Ordinance requires a person or establishment to allow a guest, client, or customer, or other visitor to smoke or use cannabis on or in that property.
- (4) Nothing in this Ordinance prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or disciplining an employee for working while under the influence of cannabis.

Use or possession of marijuana in public.

- (1) No person shall use or consume marijuana in any public place or possess any marijuana or marijuana product in any package, bottle, glass, or other container which is not sealed as required by law while in a public place. For purposes of this section, the term 'public place' shall mean any street, alley, sidewalk, or parking lot, commonly and customarily open to or used by the general public and any public building or structure open to or used by the general public.

- (2) No person shall use or consume marijuana on any private property without the consent of the owner of such property.
- (3) It is a Class 2 misdemeanor for any person occupying a motor vehicle located upon a public highway or the right-of-way of a public highway to have a package or any receptacle containing marijuana in that persons' possession unless the seal of the original package remains unbroken, or the marijuana is so removed from the passenger area of the motor vehicle that no occupant of the motor vehicle has access to it.
- (4) It is a Class 2 misdemeanor for any person to have a package or any receptacle containing marijuana in that persons' possession unless labeling of the package identifies clearly the marijuana has been obtained from a legal dispensary or a certificate from a physician stating the person is authorized for cultivation of marijuana at home or designated caregiver for a cardholder who has a certificated from a physician stating they may cultivate marijuana at home.

Section 5: Civil Penalties for Violation of this Ordinance.

Any person or entity that violated any provision of this Ordinance is subject to a civil penalty up to \$100.00.

MOTION by Schmidt and second by Jibben. Jibben: "Aye" Poppens: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: Sean Arnett presented 2023 employee benefits options and answered questions from the Board. Options included United Healthcare and two HealthPartners plans. There was no public input offered to the Board at this time.

Commissioner Poppens left the meeting at this time.

RESOLUTION: BE IT RESOLVED to adopt the Health Partners Alternate Plan (Alternate Plan Design -8.26%; projected \$137,571 decrease to current; lab/x-ray benefit-no charge; HDHP embedded; lower deductible for copay plan; 2nd year rate cap of not to exceed 15%, potential to reduce to 12%), Delta Dental, and EyeMed employee benefits for 2023 as presented. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: Jesse Fonkert on Sioux Metro Growth Alliance, lead the presentation of the Regional Wastewater Study. The engineers who authored the study report were also present to explain and answer questions. Public input included a Lincoln County resident with concerns about discharge into Snake Creek and possible drainage problems it could cause.

COMMISSIONER BRIEFING: John Rombough, Buildings & Grounds Superintendent, informed the Board of the necessary facts pertaining to a design proposal and request for bids for work at the Fairgrounds.

RESOLUTION: BE IT RESOLVED to accept and authorize the Chair to sign the proposal from DGR Engineering for Lincoln County Fairgrounds water/septic system design for an estimated \$6,000. MOTION by Schmidt and second by Jibben. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to authorize an advertisement requesting sealed bids to install the electrical utilities in the new 4-H Showring building: Bids due to the Auditor's Office by 10:00 a.m. 11.18.2022; Opened & read 10:15 a.m. 11.18.2022; Awarded 11.22.2022. MOTION by Jibben and second by Schmidt. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

COMMISSIONER BRIEFING: William Golden, Chief Civil Deputy State's Attorney, informed the Board of the necessary facts pertaining to a request for relief.

RESOLUTION: BE IT RESOVLED to approve the request for County assistance in the amount of \$568.62 for case number 113862. MOTION by Schmidt and second by Jibben. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

In anticipation of the Executive Sessions on the Regular Business, Commissioner Landeen, Chair, moved up the Opportunity for Public Comment and Commissioner Report sections.

OPPORTUNITY FOR PUBLIC COMMENT:

A resident of Fairview expressed her desire for the County to hand-count the ballots cast in the 2022 General election and asked for a public hearing to be scheduled for her to speak about election integrity.

COMMISSIONER REPORT (INFORMATIONAL ONLY):

Commissioner Landeen reported on a letter from Unified Judicial System pertaining to the 2nd Circuit's need for using the Commission Chambers. Landeen also stated that this will be on a future agenda.

Commissioner Schmidt reported on his participation in a ribbon cutting in Lennox.

Commissioner Jibben reported on his attendance at an open house for the Highway 106 corridor study.

REGULAR BUSINESS (CONTINUED):

RESOLUTION: BE IT RESOLVED to enter Executive Session at 10:01 a.m. for the following purposes: Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term "employee" does not include any independent contractor, SDCL 1-25-2(1); Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters, SDCL 1-25-2(3). MOTION by Jibben and second by Schmidt. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to exit Executive Session at 10:58 a.m. MOTION by Schmidt and second by Jibben. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

There was no public input offered to the Board for the remainder of the agenda items.

RESOLUTION: BE IT RESOLVED to Highway Department to have a departure for hiring purposes. MOTION by Schmidt and second by Jibben. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

RESOLUTION: BE IT RESOLVED to authorize expenditure of funds for appraisals for the purposes of investigating the possibility of purchasing land around the airport. Motion by Jibben and second by Schmidt. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

MOTION by Jibben and second by Schmidt to adjourn at 11:00 a.m. until 8:30 a.m. on November 1, 2022. Jibben: "Aye" Schmidt: "Aye" Landeen: "Aye". Motion carried.

Lincoln County Board of Commissioners

/s/

Tiffani Landeen, Lincoln County Chair

Attest: /s/
Shaun Feilmeier, Deputy Auditor

Approved November 1, 2022.

Please publish the week of November 7, 2022.