

**HERMOSA TOWN BOARD  
WORK SESSION  
Tuesday, January 24th, 2023 – Following P&Z Meeting**



- 1) **ROLL CALL:**
  - A) BOT Roll Call: Henrichsen, Holsworth, Kramer, Schumack
  - B) P&Z Roll Call: Harris, Waltman, Irvine, Stockham & Klaski
  - C) Acknowledgement of other attendees
  
- 2) **CALL FOR CHANGES:**
  - A) Review current agenda items
  - B) Motion to accept the agenda as presented/amended
  
- 3) **NEW BUSINESS:**
  
- 4) **WORK SESSION ITEMS**
  - A) Annexation: Gumbo Lily, Fairgrounds Place, McDermand Street.
  - B) Update sign next to yard waste dumpsters.
  - C) Lease agreement-250 Main street
  - D) Roy's Drive In sewer line
  - E) Agreement for performance of services of public works and town maintenance.
  
- 5) **ITEMS FROM CITIZENS:** No action will be taken (3-minute time limit per speaker)  
Meetings of the Board of Trustees are open to the public. The audience may be allowed to comment on specific agenda items during the time allotted on the agenda for those items, according to established procedures of the Board. This is a time for members of the public to express concerns or discuss issues having relevance to the town. Anyone wishing to address the Town Board during this time shall be asked to identify themselves. The number of presentations and time allotted to individuals may be limited by the board president and individuals shall refrain from discussing personalities. The president at his discretion, may recognize patrons at other times during the board meeting. No action will be taken by the board on any issue related without being first placed on a future agenda, by the board, to allow for proper notice.
  
- 6) **TRUSTEE INPUT:**
  
- 7) **EXECUTIVE SESSION:**
  - A. Motion to enter Executive Session allowable by SDCL 1-25-2.1 – Legal/Personnel/Contract
  - B. Motion to exit out of Executive Session
  - C. Motions resulting from Executive Session
  
- 8) **ADJOURN:**  
Motion by \_\_\_\_\_; second by \_\_\_\_\_ to adjourn the meeting at \_\_\_\_\_ pm.

ATTEST:

\_\_\_\_\_  
Monika Serviss  
Finance Officer

\_\_\_\_\_  
Dan Holsworth  
Town Board President

## Annexation Responses - 1-20-2023

4 A.

Name	Signed/Return	Yes	No	Comments
Kelly, William	X		X	
Teller, Jerod	X	X		
Stinson, Richard	X		X	Comments on 2nd & 3rd paragraphs indicating the information is wrong
Summervold, Pam	X		X	
Usera, Roland-Fairgrounds & Gumbo Lily	X		X	I have my own well, and even not close to 400 feet of sewer and main water line. Leave me out of this problem. Thank you. Also the RU Mobile Home Park is for sale at anytime, if you want it , for the right price.
St. Michael's Catholic Church	X		X	
Brengle, Lane	X		X	
Lesnick, Peggy	NO		X	Per e-mail dated 11-22-22
Simpson, Ryan & Breezy	X		X	With all the past lies & dishonesty from the board members & others I am respectfully declining. I would appreciate if this was the last of the discussion concerning my property.
Wooden Shoe Ranch	X		X	
Phillip, Roberta	X		X	
Schottmuller, Jerome	X		X	
Fried, Lynda	X	X		
Waner, Alan & Doreen	X	X		
American Legion Post #303	X		X	Per letter dated 11-22-22 from Jim Preston. Will be voted on 12-1-22 meeting. Vote for NO
Priem, Joshua	X	X		
Gomez, Trisha	X			
Starr, Brian	X			
Stenquist, Dale	X			
Bucholz, Roger	X			
Sjomeling, Kathern	X			
Teller, KJ	X		X	
Quinn, Don Jr.	X			
Hermosa Seventh Day Adventist	X	X		
Barnier, Greg	X			
Corr, Jack & Melissa	X			
SD Dept of Transportation	X			
Upton, Jerry	X		X	
Gabel, Tom	X			
Leonard, Wyone	X			
Thomas, James	X		X	
Custer County	X			
Nelson, Danny	X			
McLaughlin, Dawn	X			
Neugebauer, Joy	X			Joy called - she does not own any land.
Gomez, Esther				
New Horizon, LLC				
Preble, Dawn				Return to Sender - Unclaimed
Burgers, Leith			X	Return to Sender - Unclaimed
Kobza, Davina & Jamie				
Gomez, Esther	Insufficient address			
	34	5	14	
Fairgrounds Place				

4 B.

**Jill Dybvig**

---

**From:** Summit Signs <summitsignsrc@gmail.com>  
**Sent:** Wednesday, November 9, 2022 9:17 AM  
**To:** Jill Dybvig  
**Subject:** Re: Sign Quote-Hermosa

Hello Jill,

Unfortunately, we do not make plywood signs at this time. We can, however, make your sign out of our NUDO board. NUDO is made of a plastic core sandwiched between two sheets of aluminum. It is our most cost-effective option and works well for large signs like this. If you'd like, you can bolt your NUDO sign to a plywood backing for extra strength and support.

Let me know if you'd like to try this option!

Best,  
Thea  
Summit Signs

Summit Signs COVID 19 Precautions: <http://www.summitsignsrc.com/>

On Wed, Nov 9, 2022 at 8:54 AM Jill Dybvig <[jill@hermosasd.com](mailto:jill@hermosasd.com)> wrote:

Good Morning,

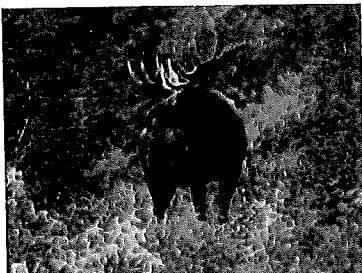
I need a quote for 2 - 4' x 8' (plywood) signs to mount on two poles (see attached documents). I don't know if it matters how many colors you use. The town board would like a quote for 2 signs with 3 colors and 2 signs with 4 colors. Please give me a call if you have any questions. I need these quotes by December 8<sup>th</sup> to put on our agenda.

Thank you,

*Jill Dybvig*

Town of Hermosa

605-255-4291



**IN TOWN RESIDENTS ONLY!!  
YARD WASTE ONLY!!**

**NO**

- ✓ NO PLASTIC OR PAPER BAGS
- ✓ APPLIANCES
- ✓ LIQUIDS OR CHEMICALS
- ✓ TIRES
- ✓ DRUMS OR CONTAINERS

PLACING UNAUTHORIZED MATERIALS IN THIS CONTAINER COULD RESULT IN A FINE UP TO **\$500.00** (\$10.99 GENERAL PENALTY) PLUS ADMINISTRATIVE FEE OF **\$50.00**. IF CONTAMINATED YOU WILL ALSO BE CHARGED TO DUMP DUMPSTER. THIS DUMPSTER MAY NOT BE USED BY ANY PROFESSIONAL TREE REMOVAL COMPANIES

**IF DEBRIS FALLS ON THE GROUND - PLEASE CLEAN IT UP!!**

TAKE PRIDE IN YOUR HOMETOWN

**SMILE FOR THE CAMERA!!**

**8' x 4' NUDO Sign  
Red, Black/White, Non-Refl.  
Square Corners, No Holes  
Qty: 2 @ \$475.00 ea**



Rapid City, SD SummitSignsRC.com

Customer:	
Company:	
Address:	
City:	State/ZIP:
Phone:	
Fax:	

Job No.:	Date:
Order Date:	Salesperson:
Sign Dimensions:	Estimate:
Comments:	

**IN TOWN RESIDENTS ONLY!!  
YARD WASTE ONLY!!**

**NO**

- ✓ NO PLASTIC OR PAPER BAGS
- ✓ APPLIANCES
- ✓ LIQUIDS OR CHEMICALS
- ✓ TIRES
- ✓ DRUMS OR CONTAINERS

PLACING UNAUTHORIZED MATERIALS IN THIS CONTAINER COULD RESULT IN A FINE UP TO **\$500.00**  
(\$10.99 GENERAL PENALTY) **PLUS** ADMINISTRATIVE FEE OF **\$50.00**. IF CONTAMINATED YOU WILL  
ALSO BE CHARGED TO DUMP DUMPSTER. THIS DUMPSTER MAY NOT BE USED BY ANY PROFESSIONAL  
TREE REMOVAL COMPANIES

**IF DEBRIS FALLS ON THE GROUND - PLEASE CLEAN IT UP!!**

**TAKE PRIDE IN YOUR HOMETOWN**

**SMILE FOR THE CAMERA**



2 - 4' x 8' plywood  
4 colors

4 C. COPY

LEASE AGREEMENT – 250 MAIN STREET

In consideration of the Landlord’s leasing of the premises to the Tenant, the Tenant’s leasing from the Landlord the premises, and the mutual benefits and obligations conferred by this lease on the Parties, and in recognition of the receipt and sufficiency of said consideration, the Parties hereby agree to the following terms and conditions:

- I. **The Parties** – Lease agreement is between Lessor under the individual/entity (hereinafter known as the “Landlord”) known as The Town of Hermosa and the Lessee under the individual/entity (hereinafter referred to as the “Tenant”) known as Brad Westergard.
- II. **Premises** – The space/property being leased shall be described as: 250 Main Street; a portion of Parcel 9158, Lots 20-23 Blk 3, Town of Hermosa (Hereinafter referred to as the “Premises”).
- III. **Space Rented** – The space described equals: 1,368 Square Feet (SF)
- IV. **Term** – The term of the lease shall be one [1] year beginning on the 18 day of February, 2022 and ending on the 17 day of February, 2023.
- V. **Rent** – Rent shall be paid on the 1<sup>st</sup> of every month in the amount of three hundred fifty dollars (\$350.00).

Check One

- Rent shall increase \_\_\_\_\_ percent (\_\_\_\_%) on an annual basis.
- Rent shall increase \_\_\_\_\_.
- Rent shall remain fixed for the term of the lease.

- VI. **Common Areas** – The Tenant, along with any of their employees, may use the following common area(s) along with other inhabitants:

- \_\_\_\_\_ Parking Space(s)  All Parking Space(s)
- Restroom(s)
- Storage Area(s)
- Entrance(s) (Including Stairs & Elevators)
- Conference/Meeting Room(s)
- Trash Area(s)
- Kitchen(s)
- Other \_\_\_\_\_

- VII. **Renewals**

Check One

- Tenant shall have the option to renew the lease for \_\_\_\_\_ year(s) under the following conditions: \_\_\_\_\_

- Tenant does not have the right to renew the lease.

- VIII. **Security Deposit** – The Tenant is required to pay zero dollars (\$0.00) as a Security Deposit. If the Tenant follows the terms and conditions of this agreement in good faith and without damaging the Premises, the Security Deposit will be returned within ten (10) business days at end of lease. Otherwise, any repairs needed for the Premises will be deducted from the Security Deposit.

**IX. Condition Upon Move-In**

Check One

- The Tenant agrees to take tenancy of the property on an "as is" basis, willing to make all fit-ups (if needed) on the Premises at the expense of the Tenant.

- The Landlord accepts building the fit-ups for the Tenant that includes improvements to be made  as an addendum  described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All fixtures shall  remain  not remain on the premises at the end of the lease term.

**X. Improvement During Lease Term** – The Tenant, with written approval of the Landlord that may not be reasonably withheld, shall be able to make any type of improvement to the Premises.

**XI. Use** – The Tenant will occupy the Premises for the following use:

No vehicle repairs or work will be done outside of the building. No extra vehicles will be left unattended on premises.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Note the American with Disabilities Aca (ADA): All businesses that are open to the public or employ fifteen (15) or more people require that the premises be accessible by persons with disabilities. In the event that the premises must be altered for ADA compliance, the cost of improvements, alterations, and/or modifications necessary for compliance with the ADA shall be the responsibility of:

Check One

Tenant

Landlord

Cost to be split equally between Landlord and Tenant

**XII. Utilities and Other Expenses**

Check Who Pays

Tenant  Landlord - Air Conditioning (AC)

Tenant  Landlord - Cable

Tenant  Landlord - Electricity

Tenant  Landlord - Gas

Tenant  Landlord - Heat

Tenant  Landlord - Internet

Tenant  Landlord - Oil / Propane

Tenant  Landlord - Water/Sewer

Tenant  Landlord - Other: Snow Removal

Tenant  Landlord - Other: Property Maintenance (grass, weeds,etc.)

Tenant  Landlord - Other: \_\_\_\_\_

**XIII. Landlord Representations** - At the time of lease signing, the Premises shall be properly zoned for the Tenant's stated use as stated in Section XI and will be in compliance with all applicable state and federal laws and regulations. The Premises shall not have been used for the storage or disposal of any toxic or hazardous substances, and the Landlord has received no notice from any governmental authority concerning removal of any toxic or hazardous substances from the property.

**XIV. Landlord Responsibility**

- Landlord shall maintain and make any and all necessary repairs to :
  1. The roof, structural components, exterior walls, and interior common walls of the premises
  2. Plumbing, electrical, heating, ventilating, and air-conditioning systems

**XV. Tenant Responsibility**

- Tenant shall keep the Premises clean and well maintained at all times, so that the Premises shall be in marketable condition.

**XVI. Insurance**

Landlord agrees to carry property coverage insurance for the Premises.

Tenant agrees to carry Public Liability Insurance that includes the Landlord as an insured party for personal injury.

The coverage the Tenant shall provide will be in the amount(s) of \$1,000,000.00 which shall include the building & grounds plus public liability.

Check All That Apply

\_\_\_ \$ \_\_\_\_\_ per occurrence

\_\_\_ \$ \_\_\_\_\_ per year

This agreement automatically releases the Landlord and Tenant from each other in reference to liability for property, loss, damage, personal injury, or anything else covered by the insurance plan.

**XVII. Taxes**

Check Who Pays

\_\_\_ Tenant \_\_\_ Landlord – **Real Property Taxes**

\_\_\_ Tenant \_\_\_ Landlord – **Personal Property Taxes**

- For Properties with Multiple Tenants – If the Tenant pays for the real property taxes it should be noted that the calculation should be equal to that Tenant's portion of the property/total square feet.

**XVIII. Subletting** – The Tenant \_\_\_ does X does not have the right to sublet the Premises. Any new Tenant under a sublease must meet the approval of the Landlord and such approval shall not be unreasonably withheld.

**XIX. Damage to the Premises** – The Tenant may terminate the lease agreement if necessary repairs to the Premises due to fire, flood, or any natural catastrophe keep the Tenant from being open for over ninety (90) days.

- If the Tenant is not able to be open for the ninety (90) day period due to damage to the Premises, there will be no rent paid during said period.

- XX. Default** – If the Tenant defaults on the lease agreement for non-payment of rent or for any other reason, the Landlord agrees to give notice to the Tenant giving the Tenant the right to cure the issue(s). If the Tenant does not cure the issue(s) within the amount of time stated in the notice, the Landlord has the right to take legal action.
- XXI. Notice of Quiet Enjoyment** – During the term of the lease agreement, the Tenant has the right of quiet enjoyment of the Premises.
- XXII. Eminent Domain** – The lease automatically becomes void if the Premises are taken by eminent domain. During the process, the Tenant will have the right to claim:
- Value of the Lease Agreement
  - Loss of Business Revenue
  - Moving and Relocation Expenses
- XXIII. Holding Over** – If the Tenant remains in possession of the Premises after the lease agreement ends, the tenancy shall continue on a month-to-month, to “Tenancy at Will” basis unless the Landlord gives notice for the Tenant to vacate.
- XXIV. Disagreements During the Lease Period** – If a disagreement arises during the lease period, the following actions shall take place:

Check All That Apply

\_\_\_ Litigation – If a dispute arises from either the Landlord or Tenant; the parties have the right to take the matter to the court under the Premises’ jurisdiction.

\_\_\_ Mediation with Possible Litigation – If there is a dispute between the Landlord and Tenant, all parties agree to attempt to come to an agreement through the use of an agreed upon mediator.

- It is agreed that the cost(s) involved in hiring the mediator shall be shared equally and that each party shall cooperate in a good faith attempt to reach a resolution. Both parties agree that they shall allow the mediator thirty (30) days from the first (1<sup>st</sup>) meeting to reach a compromise before going to court.

\_\_\_ Mediation with Possible Arbitration – If there is a dispute between the Landlord and Tenant; all parties agree to attempt to come to an agreement through the use of an agreed upon mediator.

- It is agreed that the cost(s) involved in hiring the mediator shall be shared equally and that each party shall cooperate in a good faith attempt to reach a resolution. Both parties agree that they shall allow the mediator thirty (30) days from the first (1<sup>st</sup>) meeting to reach a compromise before going to the arbitrator.
- The arbitrator selected will be a third (3<sup>rd</sup>) party to be mutually agreed upon. The arbitrator shall decide all costs directed towards hiring the arbitrator.

The Landlord shall not have to attend the mediation or arbitration process unless Tenant is current with the rental payments, either submitting to the Landlord directly or depositing the funds in an escrow account.

**XXV. Additional Agreements** – Landlord and Tenant additionally agree to the following:  
The Town of Hermosa has the right to park city vehicles plus utilize the building for storing town property on an as needed basis. Landlord will retain a duplicate key to the premises. Landlord may enter the premises at reasonable times upon notice to the Tenant.

**Entire Lease Agreement** – This document supersedes any other writings in relation to the Premises and has authority over any oral agreements made between the Landlord and Tenant.

**XXVI. Successors and Assignees** – All assignees of the parties including heirs, successors, or anyone else that may be considered is mutually bound by this lease agreement

**XXVII. Notices** – All notices in relation to the Premises or this lease agreement shall be in writing and delivered to the following address below via Certified Mail with Return Receipt:

Landlord - \_\_\_\_\_  
Town of Hermosa  
P.O.Box 298  
Hermosa, SD 57744  
\_\_\_\_\_

Tenant Brad Westergard, 106 2<sup>nd</sup> Street, PO Box 408, Hermosa, SD 57744

**XXVIII. Governing Law** – This lease agreement will be governed by and construed in accordance with the laws in the State of South Dakota.

**XXIX. Counterparts and Modifications**

- The Landlord and Tenant agree that they shall sign several identical counterparts of this lease and any fully signed counterpart shall be treated as an original.
- Only writing(s) signed by the party against whom such a modification is sought to be enforced shall modify this lease.

**XXX. Waiver** – If either Landlord or Tenant waives any term or provision of this lease at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this lease, that party retains the right to enforce that term or provision at a later time.

**XXXI. Early Termination** – The landlord and/or the tenant X \*has \_\_\_ does not have the option to terminate the lease.

\*The landlord shall allow the tenant to quit or terminate the lease via a penalty of zero Dollars (\$ 0.00 ).

In addition, the landlord and/or tenant must provide written notice to the address state in Section XXVIII within least 30 days \_\_\_ months of the intended end date.

**XXXII. Severability** – If any court determines that any provision of this lease is invalid or unenforceable, any invalidity or unenforceability will affect only that provision. It will not make any other provision of this lease invalid or unenforceable, and shall be modified, amended, or limited only to the extent necessary to render it valid and enforceable.

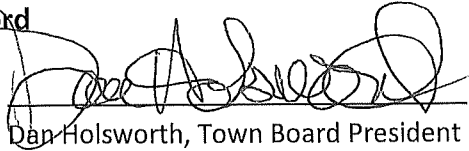
---

---

Signatures

Landlord

Name:



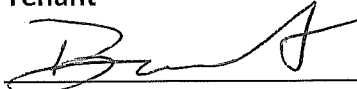
Dan Holsworth, Town Board President

Date:

3-24-2022

Tenant

Name:

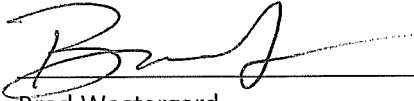


Brad Westergard

Date:

3-24-2022

     **Personal Guaranty** – Upon my authorization of this agreement, I personally guarantee the performance of all financial obligations under this lease.

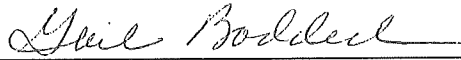


Brad Westergard

Date:

3-24-2022

ATTEST:



Gail Boddicker, Finance Officer

Date:

3/24/2022

4 E. COPY

**TOWN OF HERMOSA  
AGREEMENT FOR PERFORMANCE OF SERVICES OF  
PUBLIC WORKS AND TOWN MAINTENANCE**

This Agreement is entered into this 5<sup>th</sup> day of January, 2022 by and between the Township of Hermosa, South Dakota, hereinafter "Town" and Chuck Ferguson, hereinafter "Contractor," of Hermosa, South Dakota, for the performance of the Town's maintenance duties, monitor and oversee water maintenance, and other such things as specifically set forth herein.

**Relationship of the Parties**

The parties hereby acknowledge that no other relationship exists between the Town and Contractor, other than an independent contractor relationship for all intents and purposes of this Contract. The Contractor shall in no way be deemed the agent of the Town, except as expressly provided herein.

**The Duties and Essential Job Functions:**

The Contractor must work well at all times with the President, Vice-President and Finance Officer. The Contractor shall follow all directives given to the contractor through a majority vote of the Board of Trustees. The Contractor shall undertake the following duties in regard to the various functions of this Agreement:

**Pump House:**

- Read master meter, daily
- Responsible for marking and recording amounts and times read daily
- Responsible for checking and recording daily, monthly, and quarterly in a note book to be brought to the board twice a month
- Monitor fluoride, chlorine and polyphosphate tanks
- Chlorine pump has a rubber diaphragm which must be replaced every six months and documented
- Monitor gas, temperature in room and maintain in an orderly fashion
- Responsible for cleanup and up keep of the pump house as well as organize and maintain cleanliness at the garage
- Responsible for state annual water meter readings and report

**Water Tower:**

- Check water level and maintain records
- Coordinate cleaning of the tank

**General Water Works:**

- Flush hydrants as needed
- Turn water on and off as directed by the Finance Officer or Board of Trustees. No water or new services shall be installed or turned on or off without a work order that will be initialed or the direct written instruction of either the Finance Officer or the Board of Trustees.
- Read meters located in pits monthly and upon request to fill in during vacations or emergencies.
- Responsible for repair and replacing existing meters/remote meters throughout the Town.
- Take samples for chlorine levels every two weeks
- Perform state tests every month for bacteria check
- Comply with any and all state tests required
- Is to be reimbursed for all samples sent with correct documentation
- Respond to complaint calls
- Inspect all taps of new construction and repairs other than those completed by the stated contractor
- Have all taps of new construction and repairs which are installed by the stated contractor inspected by a separate and approved inspector.

Grounds Keeping:

- Mow water tower hill, all town property right-of-ways, pump house and lagoon (excludes railroad properties)
- Weed eat around all signs, hydrants and any areas needing attention that are town properties
- Such grounds keeping set forth in this section shall be done on a regular, as needed basis, to maintain a neat appearance of all town properties and to meet town ordinances
- Parties agree that in the event the Contractor fails to mow or trim any particular area within the Town limits within 72 hours of being notified to do so by the City Finance Officer, after a majority vote of the Board, the Town reserves the right to hire another contractor to complete said task at Contractor's expense, which shall be subtracted from Contractor's payments.

Snow Removal:

- Responsible for snow removal when the wind has stopped blowing and there is four inches of snow or more
- This will include blading of all approaches to driveways and all secondary streets as needed and as directed by the Street Chairman
- Snow removal equipment rental costs will be invoiced to the Town by the Contractor at the rates as agreed upon in attached Exhibit A.
- Contractor is responsible for damages, clean-up, and repair.

**Compensation for Contractor:**

The Contractor shall be paid \$1313.00 per month, for all duties set forth herein, regardless of the frequency of said duties. The said amount is to include all taxes or other fees required by any governmental agency for the performance of dates set forth herein. Payment shall be due and payable on the first day of each month. Submittal of the previous month's records must be made prior to release of monthly Contract payment.

Sewer:

- Respond to distress calls and assess problem areas
- Maintain accurate records
- Check manholes on a regular basis

Lagoon:

- Monitor levels for all three cells and document on a monthly basis
- Check for water clarity
- Do samples two weeks prior to irrigation or distribution

Other Responsibilities:

- Keep complete record of tasks performed
- Wear and respond to a cell phone for use of locating without having to search
- Respond to emergencies after hours
- Attend the Board of Trustees meetings with report on each department
- Must do locates when One Call requests
- Prepare a report turned in to the Board of Trustees monthly
- Work with all Town officials
- Inspect all taps of new construction and repairs other than those completed by the stated contractor
- Have all taps of new construction and repairs which are installed by the stated contractor inspected by a separate and approved inspector.
- Quarterly report with Board members on stats

**Compensation for Contractor:**

The Contractor shall be paid \$1313.00 per month, for all duties set forth herein, regardless of the frequency of said duties. Such amount is to include all taxes or other fees required by any governmental agency for the performance

of dates set forth herein. Payment shall be due and payable on the first of each month. Submittal of the previous month's records must be made prior to release of monthly Contract payment.

**Equipment Rates:**

The parties agree that the equipment rates set forth in Exhibit A shall be paid to Contractor as needed. Contractor shall submit a billing, no less than every thirty (30) days regarding equipment time used for the previous month. Such billing shall include the description of said equipment, hours of use and a brief description of the job site upon which equipment was used.

**Insurance and indemnification:**

Contractor agrees to carry liability insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence and further agrees to hold the Town harmless and indemnified from any and all third party claims arising from or related to this Contract, including but not limited to acts of negligence, willful misconduct, or any other damage to property or injury to person resulting from Contractor's performance of this Agreement.

**Terms of Agreement:**

This contract is for a term of twenty-four (24) months. Either party may terminate this Agreement, in whole or in part, by giving thirty (30) days written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party. Where method of payment is "lump sum", the final invoice will include all services and expenses associated with the Agreement at a rate of \$42.35 per day, up to the effective date of termination.

**Administration:**

Contractor warrants and represents that he shall obey and comply with all state, local and federal rules, laws and regulations, and do no other such thing which would reflect poorly upon the township while in the performance of his duties under this Contract.

**Standards:**

Contractor warrants and represents that all work performed subject to this Agreement shall be completed in a workmanlike manner and shall comply with industry standards where the same may be readily demonstrated though Industry Codes, etc.

**Controlling Agreement:**

If any of these General Terms and Conditions are determined to be invalid or unenforceable in whole or part by a court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that as closely as possible expresses the intention of the stricken provision.

Dated this 4<sup>th</sup> day of January.

TOWN OF HERMOSA  
BY: [Signature]  
(TOWN BOARD PRESIDENT)

1-4-22  
(DATE)

ITS: [Signature]  
(CHUCK FERGUSON, CONTRACTOR)

1-4-22  
(DATE)

ATTEST:  
[Signature]

1-4-2022  
(DATE)



# EXHIBIT A

FERGUSON CONSTRUCTION

## *EQUIPMENT HOURLY RATES*

<u>ITEM</u>	<u>RATE</u>
Backhoe	\$ 75.00
Backhoe, 12' Blade	\$ 75.00
Bobcat, 8' Bucket	\$ 60.00
Motor Grader Blade	\$ 65.00
6 Yard Box Truck	\$ 40.00
Mowing Equipment / Bobcat Brush Hog	\$ 55.00
17 Yard Box Truck	\$ 65.00
Footings & Foundations (per inspection)	\$ 35.00
Shoveling Sidewalks & Entry Ways (up to 3 times per day)	\$ 25.00

\*\*Includes Operator Fees

**TOWN OF HERMOSA**  
**AGREEMENT FOR PERFORMANCE OF SERVICES OF**  
**WASTEWATER TREATMENT FACILITY**

This Agreement is entered into this 7<sup>th</sup> day of January 2022 by and between the Township of Hermosa, South Dakota, hereinafter "Town" and Chuck Ferguson, hereinafter "Contractor," of Hermosa, South Dakota, for the performance of the Town's maintenance duties, monitor and oversee water maintenance, and other such things as specifically set forth herein.

**Relationship of the Parties**

The parties hereby acknowledge that no other relationship exists between the Town and Contractor, other than an independent contractor relationship for all intents and purposes of this Contract. The Contractor shall in no way be deemed the agent of the Town, except as expressly provided herein.

**The Duties and Essential Job Functions:**

The Contractor must work well at all times with the President, Vice-President and Finance Officer. The Contractor shall follow all directives given to the contractor through a majority vote of the Board of Trustees. The Contractor shall undertake the following duties in regard to the various functions of this Agreement:

Sewer:

- Respond to distress calls and assess problem areas
- Maintain accurate records
- Check manholes on a regular basis

Lagoon:

- Monitor levels for all three cells and document on a monthly basis
- Check for water clarity
- Do samples two weeks prior to irrigation or distribution

Other Responsibilities:

- Keep complete record of tasks performed
- Wear and respond to a cell phone for use of locating without having to search
- Respond to emergencies after hours
- Attend the Board of Trustees meetings with report on each department
- Must do locates when One Call requests
- Prepare a report turned in to the Board of Trustees monthly
- Work with all Town officials
- Inspect all taps of new construction and repairs other than those completed by the stated contractor
- Have all taps of new construction and repairs which are installed by the stated contractor inspected by a separate and approved inspector.
- Quarterly report with Board members on stats

**Compensation for Contractor:**

The Contractor shall be paid \$1133.34 per month, for all duties set forth herein, regardless of the frequency of said duties. Such amount is to include all taxes or other fees required by any governmental agency for the performance of dates set forth herein. Payment shall be due and payable on the first of each month. Submittal of the previous month's records must be made prior to release of monthly Contract payment.

**Equipment Rates:**

The parties agree that the equipment rates set forth in Exhibit A shall be paid to Contractor as needed. Contractor shall submit a billing, no less than every thirty (30) days regarding equipment time used for the previous month. Such billing shall include the description of said equipment, hours of use and a brief description of the job site upon which equipment was used.

**Insurance and indemnification:**

Contractor agrees to carry liability insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence and further agrees to hold the Town harmless and indemnified from any and all third party claims arising from or related to this Contract, including but not limited to acts of negligence, willful misconduct, or any other damage to property or injury to person resulting from Contractor's performance of this Agreement.

**Terms of Agreement:**

This contract is for a term of twenty-four (24) months. Either party may terminate this Agreement, in whole or in part, by giving thirty (30) days written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party. Where method of payment is "lump sum", the final invoice will include all services and expenses associated with the Agreement at a rate of \$36.55 per day, up to the effective date of termination.

**Administration:**

Contractor warrants and represents that he shall obey and comply with all state, local and federal rules, laws and regulations, and do no other such thing which would reflect poorly upon the township while in the performance of his duties under this Contract.

**Standards:**

Contractor warrants and represents that all work performed subject to this Agreement shall be completed in a workmanlike manner and shall comply with industry standards where the same may be readily demonstrated though Industry Codes, etc.

**Controlling Agreement:**

If any of these General Terms and Conditions are determined to be invalid or unenforceable in whole or part by a court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that as closely as possible expresses the intention of the stricken provision.

Dated this 4th day of January, 2022.

TOWN OF HERMOSA  
BY: [Signature]  
(TOWN BOARD PRESIDENT)

1-4-22  
(DATE)

ITS: \_\_\_\_\_  
(CHUCK FERGUSON, CONTRACTOR)

\_\_\_\_\_  
(DATE)

ATTEST:

(Seal)

\_\_\_\_\_  
FINANCE OFFICER

\_\_\_\_\_  
(DATE)

# EXHIBIT A

FERGUSON CONSTRUCTION

## *EQUIPMENT HOURLY RATES*

<u>ITEM</u>	<u>RATE</u>
Backhoe	\$ 75.00
Backhoe, 12' Blade	\$ 75.00
Bobcat, 8' Bucket	\$ 60.00
Motor Grader Blade	\$ 65.00
6 Yard Box Truck	\$ 40.00
Mowing Equipment / Bobcat Brush Hog	\$ 55.00
17 Yard Box Truck	\$ 65.00
Footings & Foundations (per inspection)	\$ 35.00
Shoveling Sidewalks & Entry Ways (up to 3 times per day)	\$ 25.00

\*\*Includes Operator Fees

**TOWN OF HERMOSA  
AGREEMENT FOR PERFORMANCE OF SERVICES OF  
BUILDING INSPECTOR**

This Agreement is entered into this 4<sup>th</sup> day of January, 2022 by and between the Township of Hermosa, South Dakota, hereinafter "Town" and Chuck Ferguson, hereinafter "Contractor," of Hermosa, South Dakota, for the performance of the Town's building inspector, and other such things as specifically set forth herein.

**Relationship of the Parties**

The parties hereby acknowledge that no other relationship exists between the Town and Contractor, other than an independent contractor relationship for all intents and purposes of this Contract. The Contractor shall in no way be deemed the agent of the Town, except as expressly provided herein.

**The Duties and Essential Job Functions:**

The Contractor must work well at all times with the Board of Trustees, Engineer and Finance Office. The Contractor shall follow all directives given to the contractor through a majority vote of the Board of Trustees plus the Engineer. The Contractor shall undertake the following duties in regard to the various functions of this Agreement with approval of the Town Engineer and the Town Floodplain Engineer:

1. Inspect all permitted residential, commercial and/or industrial construction work, beginning, during and upon completion, to determine its conformity with the International Building Codes, applicable State building codes and Town Municipal codes upon request.
2. Provide written inspection results to the Finance Office.
3. Investigate work being performed without the required building permits, substandard housing and dangerous building complaints. No Certificate of Occupancy documents will be presented prior to the approval of the Town Engineer or Floodplain Engineer.

**Compensation for Contractor:**

The Contractor shall be paid \$35.00 per inspection, for all duties set forth herein. The said amount is to include all taxes or other fees required by any governmental agency for the performance of dates set forth herein. Payment shall be due and payable on the first meeting of each month. Submittal of the previous month's inspection records must be made prior to release of monthly payment.

**Insurance and indemnification:**

Contractor agrees to carry liability insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence and further agrees to hold the Town harmless and indemnified from any and all third party claims arising from or related to this Contract, including but not limited to acts of negligence, willful misconduct, or any other damage to property or injury to person resulting from Contractor's performance of this Agreement.

**Terms of Agreement:**

This contract is for a term of <sup>24</sup> ~~twelve (12)~~ months. Either party may terminate this Agreement, in whole or in part, by giving thirty (30) days written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party. Where method of payment is "lump sum", the final invoice will include all inspections up to the effective date of termination.

**Administration:**

Contractor warrants and represents that he shall obey and comply with all state, local and federal rules, laws and regulations, and do no other such thing which would reflect poorly upon the township while in the performance of his duties under this Contract.

**Standards:**

Contractor warrants and represents that all work performed subject to this Agreement shall be completed in a workmanlike manner and shall comply with industry standards where the same may be readily demonstrated through Industry Codes, etc.

**Controlling Agreement:**

If any of these General Terms and Conditions are determined to be invalid or unenforceable in whole or in part by a court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that as closely as possible expresses the intention of the stricken provision.

Dated this 4th day of January, 2022.

TOWN OF HERMOSA

BY:

[Signature]  
(TOWN BOARD PRESIDENT)

1-4-22  
(DATE)

ITS:

[Signature]  
(CHUCK FERGUSON, CONTRACTOR)

1-4-22  
(DATE)



[Signature]  
FINANCE OFFICER

1-4-2022  
(DATE)

**From:** dfinch@proacesinc.com  
**Sent:** Tuesday, January 3, 2023 1:01 PM  
**To:** Monika Serviss; 'Dan H.'; lmkw2018ins@gmail.com  
**Cc:** 'Leah Berg'  
**Subject:** Contractor Agreement  
**Importance:** High

Town of Hermosa,

When reviewing the proposed 'Agreement for performance of services of wastewater treatment facility' we believe the three bullet points on the contractor agreement is insufficient for the Town and its residents. Our recommendations for the requirements are listed below. Prior to the next work session being scheduled to agree to terms with the Public Works Personnel, Chuck Ferguson, the Town should consider the items or at a minimum be advised of the recommendations. The list is what would be required of the operator to preform to help maintain a more healthy and accurate lagoon system, in our opinion. The frequency of each item can be determined with the operator.

Lagoon:

- Maintain pH meter calibration log(s)
- Emergency Procedures established (written) – major storm event, sewer main break, or chemical release into system – SWPPP Creation
- Land Application Monitoring Summary Forms- completed and sent in with each event occurring
- Lift Station Notebook – Town needing information readily available – Daily Inspections
- Sampling Logs/Records
- Self-Monitoring Tables (Monthly Tests) Influent\*
- Sludge Levels Monitoring – Grid Reporting to account for accumulation spots (early detection of failure)
- Depth Indicator Monitoring/Logs
- Pre-Treatment Program Established – Grease issues (Ordinance 51.05 (D)), trash racks, bar screens, grinding & grit chambers, flow equalization, measuring, sampling, pumping, odor control, septage receiving
  - Operate more efficiently & extend times between sludge removal
- Infiltration/Inflow Logs
- Pump Maintenance Logs
- Certification – Obtain, Maintain, Renewal Fees
- Prepare & Submit Reports/Updates – Timely Manner
- Grounds Maintenance Logs (Land Surrounding) & Weather logs
- Annual Budget – suggested repairs or upgrades – paid for by sewer monthly fees
- Provide all SDDANR required tests, records, and reports for the system consistently and on time when due

If you have any questions, comments, or concerns just let us know!

Thank you,