

**CONSULTING AGREEMENT
POWDER HOUSE PASS CID
WITH MICHAEL STAHL**

This consulting agreement (“Agreement”) is entered into effective as of August 1, 2021 (the “Effective Date”), by and between Powder House Pass, a South Dakota Community Improvement District, of 11283 Powderhouse Trail, Lead, SD 57754 (the “District”), and Michael Stahl, of 9 Parkdale Avenue, Lead, SD 57754, (“Consultant”).

WHEREAS, the District wishes to retain the services of Consultant and Consultant wishes to provide services to the District; and

WHEREAS, the District and Consultant desire to enter into an agreement reflecting this arrangement;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Term of Consulting. This agreement shall continue on a month-to-month basis until either party provides the other party with thirty day written notice of termination.

2. Consultant’s Duties and Relationship.

1) During the Term, Consultant shall provide Consulting Services as listed on Exhibit A (“Duties”). Although no specific hours-per-day are required of Consultant pursuant to this Agreement, Consultant and the District agree that Consultant will perform the Duties in a diligent and professional and workman like manner scheduled by the Consultant and District on a basis that is likely to range from 10 to 20 hours per week. It is understood and agreed that the District, its agents, representatives, engineers and other consultants will provide Consultant with all information upon which Consultant will rely in rendering the Consulting Services hereunder, and Consultant will not assume any responsibility for independent investigation or verification thereof, and the District shall be solely responsible for the accuracy and completeness of such information. The District may, in its sole discretion, proceed in accordance or contrary to any advice given by Consultant and Consultant shall not be responsible or liable for any advice or other consultation given by them in good faith.

2) The District and the Consultant acknowledge and agree that the only relationship of the Consultant to the District created by this Agreement will be that of an independent contractor. Neither party to this Agreement shall represent or hold itself out to be the employer or employee of the other. The District will have no obligation whatsoever to pay or compensate the Consultant and/or any representative thereof for

(i) taxes of any kind whatsoever that arise out of or with respect to any fee, remuneration or compensation provided to the Consultant under this Agreement;
or

(ii) holding any position with the District.

The District will not provide

- (i) benefits to the Consultant and/or any representative thereof relating to illness, sickness or accident, whether or not resulting from the performance by the Consultant of his obligations under this Agreement; or
- (ii) retirement or pension benefits; or
- (iii) any other benefits provided by the District or any of the affiliated companies to any of their employees. Consultant further acknowledges that the consideration agreed to herein is a gross amount of consideration and that the District will not withhold from such consideration any amounts as income taxes, social security payments or any other payroll taxes. All such income taxes and other such payments shall be made or provided for by the Consultant and the District shall have no responsibility or duties regarding such matters. The Consultant will fully indemnify, hold harmless and shall defend the District from and against all assessments, claims, liabilities, costs, expenses and damages, including reasonable attorney's fees that the District may suffer or incur with respect to any such taxes incurred by Consultant in connection with compensation paid hereunder or the benefits as described above.

3. Compensation. For services rendered by Consultant under this Agreement commencing on the Effective Date, the District shall pay to Consultant consulting compensation at the rate of \$70 per hour (seventy dollars per hour) plus applicable South Dakota Sales Taxes ("Consulting Compensation"). The Consultant will keep detailed records of the work provided, to include, but not limited to, hours, dates, times and work performed and will submit the records on a regular basis along with Consultant's invoice.

4. Exclusive Service Exceptions. The parties agree that Consultant will contract exclusively with the District except that the District understands and consents to Consultant continuing to provide consulting services to the City of Lead on a part-time basis. Consultant will not contract with or provide services to any other like developments in the Black Hills without the prior express, written consent of the District.

5. Confidential Information. Consultant, during the Term, may have access to and become familiar with confidential information, secrets and proprietary information concerning the business and affairs of the District, its controlled subsidiaries and other controlled entities, including technical information, resource valuations and reports, business strategies, and other confidential and/or proprietary information (collectively, "Confidential Information"). Confidential Information shall not include any information that is or becomes generally available to the public other than as a result of Consultant's improper or unauthorized disclosure of such information in violation of this Agreement or is known to the consultant at the time of the release of the information. As to such Confidential Information, Consultant agrees during the Term or at any time following the termination of this Agreement, Consultant will not, directly or indirectly, without the prior written consent of the District.

- i. disclose or permit the disclosure of any such Confidential Information, or
- ii. use, reproduce or distribute, or make or permit any use, reproduction or distribution of, directly or indirectly, any such Confidential Information, except for any disclosure, use, reproduction or distribution that is required in the course

of his services being provided to the District or as required pursuant to valid order of a Court.

6. Termination. This Agreement may be terminated by either party upon 30 days prior written notice to the other.

7. No Restraints. As an inducement to the District to enter into this Agreement, Consultant represents and warrants that he is not a party to any other agreement or obligation for personal services precluding him from entering into this Agreement, nor is there any impediment or restraint, contractual or otherwise, on Consultant's powers right or ability to enter into this Agreement.

8. Notice. For the purpose of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given upon satisfaction of both criteria set forth below:

- i. via email to the email address on the signature page hereof and
- ii. via mail when delivered or mailed by United States registered mail, return receipt requested, postage prepaid, addressed to the District at its principal office address and to Consultant at Consultant's residence address on the records of the District or to such other address as either party may have furnished to the other in writing in accordance herewith except that notice of change of address shall be effective only upon receipt.

9. Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

10. Miscellaneous. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by Consultant and District. No waiver by either party hereto at any time of any breach by the other party hereto of, or in compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. This Agreement is an integration of the parties' agreement; no agreement or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party, except those which are set forth expressly in this Agreement. **THE VALIDITY, INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF SOUTH DAKOTA.**

11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

12. Mediation. In the event any dispute, controversy, or disagreement as to the enforcement or interpretation of the terms of this agreement arise under or in connection with this agreement, the Parties hereto agree first to engage in good faith negotiations and efforts to resolve such matters between themselves. If the Parties cannot mutually resolve those issues, the Parties agree to use their best efforts through mediation before proceeding to court for resolution of such disputes, controversy or disagreement. The prevailing Party in any suit shall be entitled to recover court costs and reasonable attorney's fees from the non-prevailing party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

Powder House Pass Community Improvement District

By:

Name: Greg Kaschmitter
Office: Chairman
Address: 11283 Powderhouse Trail
Lead, South Dakota 57754
Email address:

MIKE STAHL, LLC

Name: Mike Stahl
Office: Owner
Address: 9 Parkdale Avenue
Lead, SD 57754
Email address: mstahl@midco.net

EXHIBIT A
DUTIES OF CONSULTANT

1. Development of appropriate ordinances, resolutions, recommendations, practices, rules and regulations related to the day to day governing and management of the District.
2. Development policies and procedures for the enforcement of the powers of the Board of Supervisors under SDCL 7-25A-9 and amendments thereto.
3. Advise the Board of Supervisors and the District on the feasibility and practicality of proposed management methods and procedures for governing the District.
4. Review and advise the Board of Supervisors on engineering needs and designs, plans, construction and installation related to the infrastructure and operations for the District.
5. Such other duties and responsibilities as the Consultant and Board of Supervisors mutually agree upon.
6. Develop a job description and recruitment strategy for identifying and hiring a permanent CID Administrator in 2024 to replace Consultant.