

CITY OF TEA

RESOLUTION NO. 21-04-05

A RESOLUTION APPROVING THE CONSOLIDATION OF THE MINNEHAHA COUNTY ECONOMIC DEVELOPMENT ASSOCIATION AND THE LINCOLN COUNTY ECONOMIC DEVELOPMENT ASSOCIATION INTO THE SIOUX METRO GROWTH ALLIANCE, IN THE CITY'S CAPACITY AS A MEMBER OF THE LINCOLN COUNTY ECONOMIC DEVELOPMENT ASSOCIATION.

WHEREAS, the City has been a member of the Lincoln County Economic Development Association, a South Dakota nonprofit corporation (the "Association"), since its formation on December 12, 1996;

WHEREAS, the Association has worked to create new economic opportunities and improve access to those opportunities for residents of Lincoln County (the "County");

WHEREAS, as the City, the County, and the City of Sioux Falls have grown, the Association has developed a close working relationship with the Lincoln County Economic Development Association, a South Dakota nonprofit corporation pursuing the same aims in Lincoln County (together with the Association, the "Development Associations");

WHEREAS, the Development Associations now share administrative staff personnel and run concurrent Board meetings, aligning the efforts of the two organizations;

WHEREAS, the Association's executive staff recommended to the Association's Board of Directors a Plan of Consolidation, attached hereto, under which the Development Associations would be consolidated to form a new South Dakota nonprofit corporation, the Sioux Metro Growth Alliance (the "Alliance");

WHEREAS, on February 17, 2021, the Association's Board of Directors voted to recommend the Plan of Consolidation to the Association's members, including the City;

WHEREAS, the Plan of Consolidation will allow the new Alliance to operate more efficiently to achieve the same goals that the Development Associations pursued;

WHEREAS, the Alliance, as proposed by the Plan of Consolidation, will not have members, but will instead be ultimately governed by a Board of Directors;

WHEREAS, the Association's executive staff has recommended the Alliance form an advisory committee, consisting of the Development Associations' former members, with the explicit goal of preserving venues for municipal input (an "Advisory Committee"); and

WHEREAS, pursuant to the notice of meeting attached hereto, the Association has called a meeting of the members, on May 5, 2021, for the purpose of voting on the Plan of Consolidation (the "Meeting").

NOW, THEREFORE:

BE IT RESOLVED BY THE CITY OF TEA, SOUTH DAKOTA, that the Plan of Consolidation, in the form reviewed by the City, is hereby approved.

FURTHER RESOLVED, that [REDACTED] is appointed as the City's proxy at the Meeting for the limited purpose of casting the City's vote, as a member in the Association, in favor of (i) adopting the Plan of Consolidation; and (ii) taking any other actions reasonably related to carrying out the consolidation of the Development Associations.

FURTHER RESOLVED, the City understands and acknowledges that it will not be a member of the Alliance and is relinquishing all rights and liabilities associated with its membership in the Association, except to the extent they survive the consolidation.

FURTHER RESOLVED, in the event and at such time as the Alliance establishes an Advisory Committee, the City is authorized to accept a position on such Advisory Committee and [REDACTED] is appointed to serve as the City's representative on the Advisory Committee, subject to the terms of the Alliance's then-existing bylaws.

Dated this 19th day of April 2021

Mayor

ATTEST:

Finance Officer

PLAN OF CONSOLIDATION

Pursuant to SDCL § 47-22-3, this Plan of Consolidation (the “Plan”) is adopted this __17__ day of __February__, 2021, by the Lincoln County Economic Development Association (“LCEDA”) and the Minnehaha County Economic Development Association (the “MCEDA”). LCEDA and MCEDA are each a “Party” and may collectively be referred to as the “Parties” herein.

RECITALS

A. LCEDA is a South Dakota non-profit corporation organized under SDCL Chapter 47-22, and governed by SDCL Chapters 47-22 to 47-28, inclusive, known as the South Dakota Non-Profit Corporation Act (the “Act”);

B. MCEDA is a South Dakota non-profit corporation organized under SDCL Chapter 47-22, and governed by the Act;

C. LCEDA and MCEDA have determined it would be in the best interests of both non-profit corporations for the entities to consolidate, in accordance with the Act (the “Consolidation”); and

D. LCEDA and MCEDA have each been presented with this Plan of Consolidation (the “Plan”) which sets forth the terms of and conditions under which they will implement the Consolidation.

NOW, THEREFORE, the Parties adopt the Plan as follows:

ARTICLE I THE CONSOLIDATION

1. Consolidation. As of the Effective Date (as defined in Article III, Section 2, below), and subject to the terms and conditions of this Plan, LCEDA and MCEDA will be consolidated into a new non-profit corporation organized under the laws of the State of South Dakota, named the Sioux Metro Growth Alliance (the “Consolidated Corporation”).

2. Effects of Consolidation. As of the Effective Date, the separate legal existences of LCEDA and MCEDA will cease and both will be consolidated into a single new non-profit corporation. Sioux Metro Growth Alliance, as the Consolidated Corporation, will have all rights, privileges, and powers each Party with respect to any and all: (a) real and personal property; (b) debts due to either Party on whatever account; and (c) other things in action or belonging to either Party. The Consolidated Corporation’s title to any real or personal property, whether tangible or intangible, vested by deed or otherwise in either Party under South Dakota law will not revert or be in any way impaired by reason of the Consolidation. The Consolidated Corporation will be bound by any and all obligations of the Parties.

3. Other Terms and Conditions. After the Effective Date, the Consolidated Corporation will take over the former businesses and operations of the Parties and perform all related actions.

**ARTICLE II
THE CONSOLIDATED CORPORATION**

1. Articles of Consolidation. If the Consolidation is approved in accordance with the terms of this Plan and the requirements of the Act, the Parties will execute and cause the Articles of Consolidation of the Sioux Metro Growth Alliance, attached hereto, to be filed with the South Dakota Secretary of State. The Articles of Consolidation will be effective as of the Effective Date.

2. Bylaws. The initial Board of Directors, as established below, will be responsible for adopting bylaws for the Consolidated Corporation, as required by the Act.

3. Board of Directors. The initial board of directors of the Consolidated Corporation will serve until their respective successors have been elected and qualified or their prior resignation, removal, or death, subject to the Consolidated Corporation’s bylaws. The initial board of directors of the Consolidated Corporation will consist of the following individuals:

Director	Director
Mike Jaspers	Robert Baker
Dennis Olson	Michael Wendland
Joan Franken	Eric Pauli
Rhiannon Israel	David Doxtad
Jay Buchholz	

4. Members. All the members of LCEDA and MCEDA in good standing as of the Effective Date will automatically become members of the Consolidated Corporation. A full list of the members in good standing is as follows:

- City of Baltic, South Dakota (MCEDA)
- City of Brandon, South Dakota (MCEDA)
- City of Colton, South Dakota (MCEDA)
- City of Crooks, South Dakota (MCEDA)
- City of Dell Rapids, South Dakota (MCEDA)
- City of Garretson, South Dakota (MCEDA)
- City of Hartford, South Dakota (MCEDA)
- City of Valley Springs, South Dakota (MCEDA)
- City of Tea, South Dakota (LCEDA)
- City of Lennox, South Dakota (LCEDA)
- City of Harrisburg, South Dakota (LCEDA)
- City of Canton, South Dakota (LCEDA)
- City of Worthing, South Dakota (LCEDA)

The members of the Consolidated Corporation will have those rights and duties set forth in the Consolidated Corporation's bylaws.

ARTICLE III PROCESS AND EFFECTIVE DATE

1. Conditions Precedent. The obligation of the Parties to complete the Consolidation is subject to the satisfaction, before the Effective Date, of the following conditions and deliveries:

- A. The adoption of a resolution by the Board of Directors of each Party approving this Plan and directing its submission to a vote at a meeting of each respective Party's members.
- B. The approval of this Plan by each Party's members at a duly called meeting at which a quorum of the members was present, and upon a vote comprising at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meetings.
- C. The submission, at least ten days prior to the Effective Date, of written notice of the Consolidation to the office of the South Dakota Attorney General, if required by SDCL § 47-24-17.

2. Effective Date. The Merger will become effective as of the issuance of the certificate of consolidation pursuant to SDCL § 47-25-12, but in no event sooner than May 5, 2021 (the "Effective Date").

ARTICLE IV MISCELLANEOUS

1. Further Assurances. The Parties will cooperate with one another in the performance of the obligations and responsibilities contained in this Plan. The Parties will execute and deliver such other and further documents and instruments as may be reasonably necessary to accomplish the purposes of this Plan.

2. Amendment. The Parties may mutually amend any provision of this Plan at any time prior to the Effective Date with the prior authorization of their respective Boards of Directors. Once adopted, no amendment of any provision of this Plan will be valid unless it is in writing and is signed on behalf of both Parties.

3. Abandonment. At any time before the Effective Date, this Plan may be terminated and the Consolidation may be abandoned by the Boards of Directors of LCEDA, MCEDA, or both.

4. Governing Law. This Plan is governed by and construed in accordance with the laws of the State of South Dakota.

**ARTICLES OF CONSOLIDATION
OF
SIOUX METRO GROWTH ALLIANCE**

Pursuant to SDCL Chapters 47-22 to 47-28, inclusive, known as the South Dakota Non-Profit Corporation Act (the “Act”), the undersigned persons, as incorporators, adopt the following Articles of Consolidation.

ARTICLE 1 – CONSOLIDATION

Pursuant to SDCL § 47-25-10, the Corporation, as defined in Article 2, sets forth the following information regarding its consolidation:

- A. The Corporation is a new non-profit corporation formed under the Act, consolidated from the Minnehaha County Economic Development Association and the Lincoln County Economic Development Association (the “Consolidating Corporations”);
- B. The Corporation was consolidated pursuant to the Plan of Consolidation attached hereto as EXHIBIT A (the “Plan”); and
- C. The Plan was adopted, at meetings of the members of each of the Consolidating Corporations held on _____, 2021, at a duly called meeting at which a quorum of the members was present, and upon a vote comprising at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meetings.

ARTICLE 2 – NAME

The name of the corporation is **Sioux Metro Growth Alliance** (the “Corporation”).

ARTICLE 3 – DURATION

The period of duration of corporate existence of the Corporation is perpetual.

ARTICLE 4 – PURPOSES AND POWERS

The Corporation is organized, and at all times will be operated exclusively for, stimulating, sustaining, and supporting the economic development of communities, businesses, and general stakeholders within the Sioux Falls metro area, but outside of Sioux Falls, by focusing on growth, engagement, and advocacy under section 501(c)(6) of the Internal Revenue Code of 1986, as amended (the “Code”), or the corresponding section of any future federal tax code. In furtherance of Corporation’s purpose set forth above:

- A. No part of the net earnings or net assets of the Corporation will inure to the benefit of, or be distributable to, its members, directors, officers, or any private individual. However, the Corporation is authorized to pay reasonable compensation for services

actually rendered to or for the Corporation and to make payments and distributions in furtherance of the Corporation's exclusive purpose.

- B. A non-substantial part of the activities of the Corporation will be the carrying on of lobbying activities or otherwise attempting to influence legislation, but the Corporation will not participate or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.
- C. Notwithstanding any other provisions of these Articles to the contrary, the Corporation will not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under § 501(c)(6) of the Code and its regulations as they now exist or as they may hereafter be amended, or by any organization contributions to which are deductible under § 170(c)(2) of the Code and regulations as they now exist or as they may hereafter be amended.

The foregoing enumeration of these powers is made in furtherance, and not in limitation, of the powers conferred upon the Corporation by law, and is not intended by the mention of any particular power to limit or restrict any lawful power to which the Corporation may be otherwise entitled.

ARTICLE 5 – MEMBERSHIP

The Corporation will have members. The members of the Corporation will have those rights and duties set forth in the Corporation's bylaws.

ARTICLE 6 – BOARD OF DIRECTORS

The Corporation's management and affairs will be managed by a board of directors. The number of directors and terms of service will be determined by the board of directors. The directors will be elected by the board of directors in accordance with the procedures set forth in the Corporation's bylaws.

ARTICLE 7 – INTERNAL AFFAIRS

Provisions for the regulation of the internal affairs of the Corporation, except as provided in these Articles, will be determined and fixed by the Corporation's bylaws as adopted by the board of directors.

ARTICLE 8 – DISSOLUTION

Upon the dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation will be distributed exclusively to charitable, religious, scientific, testing for public safety, literary or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and its regulations as they now exist or may hereafter be amended.

ARTICLE 9 – REGISTERED OFFICE/AGENT

The street address of the initial registered office of the Company is:

200 N. Phillips Ave. Suite 101
Sioux Falls, SD 57104

The name of its initial registered agent at this office is Jesse Fonkert.

ARTICLE 10 – INITIAL BOARD OF DIRECTORS

The number of directors constituting the initial board of directors of the Corporation will be _____, and the names and addresses of the persons who are to serve as directors until their successors are elected and qualified are:

Names

Addresses

ARTICLE 11 – INCORPORATORS

The names and addresses of the incorporators of the Corporation are:

Names

Addresses

ARTICLE 12 – AMENDMENT

These Articles may be amended in the manner authorized by the Act at the time of amendment.

[Signature Page Follows]

Dated this ____ day of _____, 2021.

Executed and acknowledged by the Consolidating Corporations, as required by SDCL § 47-25-10:

CONSOLIDATING CORPORATIONS
LINCOLN COUNTY ECONOMIC DEVELOPMENT
ASSOCIATION

MINNEHAHA COUNTY ECONOMIC
DEVELOPMENT ASSOCIATION

_____, its _____

_____, its _____

Executed by the Incorporators of the Corporation, as required by SDCL § 47-22-5:

INCORPORATORS

EXHIBIT A
Plans of Consolidation

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