

**JOINT POWERS AGREEMENT
FOR THE
FORMATION OF THE PENNINGTON COUNTY AREA
EMERGENCY MANAGEMENT**

This Agreement is hereby made and executed this 3rd day of May 2011.

WITNESSETH:

WHEREAS the City of Rapid City, acting by and through the Rapid City Common Council, and the County of Pennington, acting by and through the Pennington County Commission, have determined that the best interest of the public welfare and safety shall be best served, preserved, maintained and promoted by and through its Police Department, Fire Department, and Sheriff's Office, and all other emergency agencies of the Pennington area, by the execution of this Agreement under the authority vested to the parties of this Agreement by SDCL 1-24-2, the Constitution of the State of South Dakota, Article IX, Section 3, and as defined in SDCL 1-24-1.

WHEREAS this joint undertaking to create a unified emergency management team that will provide efficient utilization of resources which will result in improving emergency services to the City of Rapid City and Pennington County.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained the parties hereto, hereby agree with each other and their successors to the agreement, terms and conditions herein contained:

I.

PARTIES

The parties to this Agreement shall be:

- a. The County of Pennington, South Dakota, a political subdivision of the State of South Dakota, as geographically defined pursuant to the provisions of SDCL 7-1-52, hereinafter referred to as "County"; and,
- b. The City of Rapid City, South Dakota, an incorporated municipality, as created pursuant to the general provisions of SDCL 9-1-1(1), 9-2-1(2) et.seq., hereinafter referred to as "City".

When the County and City are referred to collectively the term "Parties" shall be used.

II.

NAME OF ORGANIZATION

The name of the entity created pursuant to this Agreement shall be Pennington County Emergency Management, referred to as "PCEM." PCEM shall serve a geographical area which shall primarily be limited to the boundaries of Pennington County although it is recognized that the functions performed under this Agreement may, on occasion, extend beyond these boundaries and operate in counties contiguous to Pennington County.

III.

DURATION

This Agreement shall be perpetual in duration and may only be terminated pursuant to the conditions set forth herein.

IV.

SCOPE AND PURPOSES OF AGREEMENT

The Parties recognize the need to consolidate emergency management functions within Pennington County in order to provide the most efficient method of dealing with the services to the public that are provided by each aforementioned party.

Emergency management functions shall be considered to mean, but shall not be limited to, fire and fire related emergencies, emergency medical service requests, rescue situations, motor vehicle collisions, law enforcement related emergencies, environmental emergencies and such other public safety functions that are compatible with the purposes of this Agreement. Such emergency management functions shall also include maintenance of essential records and such other support functions as are necessary to fulfill this Agreement.

V.

CREATE USERS BOARD

Further, the Users Board, acting through the Director of Emergency Management and staff shall assume the additional responsibility of:

- a. Planning, organizing, control, and management of emergency management and such related programs as may be utilized by the parties; and

It is expressly understood by the Parties to this Agreement that the only powers delegated to the Users Board are those dealing with emergency management functions. All other powers granted by law are expressly reserved to the Parties.

VI.

LOCATION OF FACILITIES AND EQUIPMENT

Pennington County Emergency Management and its equipment shall be located in a convenient location as determined by the Users Board. Portable equipment shall be placed in such vehicular units and locations of the Parties as are necessary to carry out the functions and purposes of this Agreement.

VII.

MEMBERSHIP OF USERS BOARD

The Users Board shall consist of seven (7) members. These members shall be the Sheriff of Pennington County, Police Chief of Rapid City, South Dakota, the Fire Chief of Rapid City, South Dakota, a representative of the Pennington County Commission, a representative from the Rapid City Common Council, the Pennington County Fire Coordinator, and the Director of Military Support for the South Dakota National Guard. Any of the members cited above who are unable to attend a meeting or fulfill their duties in any other way may designate an alternate. Such alternate shall be named by informing the other members of the Users Board in writing. The designated alternate's authority may be revoked by the granting member at any time, provided written notice is given to the other members of the Board. A designated alternate shall have the same authority as any member of the Users Board including the power to vote on matters before the Users Board.

VIII.

POSITION OF CHAIRPERSON

AND VICE CHAIRPERSON

The position of Chairperson of the Users Board shall be held only by either the Fire Chief of Rapid City, the Police Chief of Rapid City, or the Sheriff of Pennington County. The position of User Board Chairman shall be a one year term. The Chairperson and Vice Chairperson shall be elected by a majority vote of the Users Board. The Chairperson and Vice Chairperson shall be voting members of the Users Board. The Chairperson shall preside over all meetings. If the Chairperson is unable to preside at meetings or in any other way carry out his functions as Chairperson, the Vice Chairperson shall assume all responsibilities of the chair position. At that time the designated alternate of the former Chairperson shall be named to a regular position. The Chairperson shall be the primary contact to the Director for day to day assistance as requested by the Director.

IX.

MANAGEMENT GROUP

There is hereby created a group within the Users Board called the "Management Group." The Management Group shall be comprised of the Police Chief of Rapid City, the Fire Chief of Rapid City, and the Sheriff of Pennington County.

It is agreed that the said Management Group shall have the authority to set and enforce: (1) Priorities; (2) Standards for the selection, supervision and termination of personnel; (3) Selection, supervision, and termination of the PCEM Director; (4) Policy governing the operations related to PCEM.

This agreement covers the overall supervision of applicable equipment and operation procedures of any Emergency Management program that may be subsequently designed and implemented by Pennington County Emergency Management. All other areas of control and management of Pennington County Emergency Management shall be administered by the full Users Board.

X.

POSITION OF DIRECTOR

There is hereby created the position of Director of Pennington County Emergency Management, hereinafter called "Director." The Director shall have the general administrative and supervisory control over the functions and activities of PCEM and the employees hired by or furnished to emergency management and shall perform such specific tasks and duties as may be assigned by the Users Board. The usual channels of appeal shall be available to the aggrieved Director as provided by Pennington County personnel regulations.

XI.

MEETINGS OF USERS BOARD

The Users Board shall meet a minimum of one time per calendar quarter. The meetings of the Users Board shall be conducted in accordance with open meetings provisions of state law. Special meetings of the Users Board may be held at any time or location upon the request of any member of the Board or the Director of PCEM in accordance with the open meetings provisions of state law.

XII.

EMPLOYEES

The Director and all of the employees hired to staff PCEM shall be considered employees of Pennington County, subject to the personnel rules and regulations of the County.

XIII.

OPERATIONS

The operations of Pennington County Emergency Management shall be governed by the following general operating parameters:

- a. The fiscal year of the entity shall be the calendar year. The budget of Pennington County Emergency Management shall be approved by the County Commission and Common Council. Prior to approving the annual budget, the Users Board and the Director shall meet and agree upon a proposed budget, the terms of which shall be presented to the County Commission and Common Council. The budget, as approved, shall include all costs necessary to carry out PCEM's functions. Notification will be given to the City by the County of all budget supplements granted to Emergency Management.
- b. The budget as approved shall be administered by Pennington County. The County shall request, and the City shall remit on a monthly basis, reimbursement to the County for expenses incurred that do not exceed the budget approved by the Common Council and County Commission. The Director shall attach thereto, in addendum form, the apportionment of financial responsibility between the City and County. The City shall be responsible for one half (1/2) of the total outstanding costs of the operation and the County shall provide one half (1/2) of all total outstanding costs.

At the end of each fiscal year, the County Auditor and City Finance Officer shall confer and determine any adjustments which might be necessary to achieve the full foregoing reimbursements.

- c. In the event capital assets/equipment must be acquired, the Director of Pennington County Emergency Management shall prepare appropriate bid specifications and bid evaluations on behalf of the Parties. The bidding process shall be administered by the County. Any such assets so acquired or contributed by the Parties shall be deemed to vest equally in the City and the County. Fixed assets shall be defined according to County policies and shall be recorded in the County Auditor's Office. The Director of Pennington County Emergency Management shall forward to the City Finance Office and County Auditor's Office a monthly statement of inventory adjustments (additions and/or deletions) and at the end of each fiscal year shall file a full inventory listing to the City Finance Office and County Auditor's Office. The Parties shall confer to make adjustments or corrections which might be necessary to the fixed asset records.

- d. All fees acquired by PCEM from the users of Pennington County Emergency Management or any of its assets or resources shall be deposited with the County Treasurer and shall be considered as part of the anticipated revenues of Pennington County Emergency Management as determined in its annual budget to be used for PCEM. Activities managed by Pennington County Emergency Management shall be apportioned between the City and County as determined by the Director. Such apportionment shall be set forth in addendum form attached hereto.
- e. Pennington County Emergency Management will maintain the equipment on inventory, either by maintenance contract or by other arrangement deemed suitable at the direction of the Users Board.
- f. The Users Board will have the power to apply for, receive and expend grants of money from any local, state or federal government and from any private individuals, foundation or corporation. The Users Board shall have full authority to enter into contracts and agreements with other entities under the authority guidelines and constraints set forth by the regulations of Pennington County and the laws of the State of South Dakota.

XIV.

TERMINATION

The Parties hereto may terminate this Agreement thus dissolving Pennington County Emergency Management with twelve (12) months written notice.

All financial obligations to Pennington County Emergency Management of any withdrawing party are to be fulfilled for twelve (12) months beyond the date of termination notice, as to maintain continuity of operations of PCEM. Conditions of unilateral termination may, upon approval of all parties, be modified to accommodate any special conditions which may exist at such time. Under no circumstances shall any Party hereto take such action which would result in the compromise of emergency services to the citizens of the Pennington County area.

Upon dissolution of Pennington County Emergency Management, all property listed on the inventory of Pennington County Emergency Management shall be independently appraised to determine current value. Thereafter, in conformance with State law, the property may either be distributed in kind or liquidated and the proceeds thereof, together with any monies on hand, distributed to the City and County in the same proportion as each Party's total contribution for the prior three (3) years of operation of Pennington County Emergency Management, as shall bear to the total of all contributions by all members of the Users Board for the same three (3) years.

XV.

AMENDMENTS

This Agreement may be amended, modified or altered only by a majority vote of the Common Council and County Commission.

XVI.

GENERAL CONDITIONS

- a. **Recordkeeping and Audits:** The Parties to this Agreement acknowledge that each has an obligation to maintain accurate records. Upon reasonable notice, each party shall have the right to inspect and audit the other parties' operation, records and maintenance and security of the data as it pertains to this agreement. Once performed, the results of the audit shall be made available upon the request to the governing bodies of Pennington County and the City of Rapid City.
- b. **Indemnification:** Each Party shall be responsible for their own negligence.
- c. **Insurance:** County will furnish City with a Certificate of Insurance from an insurance carrier, including an actual copy of the required contractual liability endorsement, or shall deposit with the City a copy of said policy. Such certificate or policy will be furnished annually and will provide that the policy cannot be cancelled without thirty (30) days notice to the City.
- d. **Non-Discrimination:** All parties hereto shall fully comply with applicable federal and state regulations; agreeing specifically not to discriminate against any employee on the account of race, color, sex, age, religion, disability or national origin.

IN WITNESS WHEREOF, the Parties agree and do now set their hands and seals
in execution of this Agreement on this 5th day of April 2011.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

COUNTY OF PENNINGTON

Commission Chairperson

ATTEST:

County Auditor

(SEAL)