

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF RAPID CITY
AND THE RAPID CITY AREA SCHOOL DISTRICT FOR ENTRY ONTO
PROPERTY FOR WILDFIRE MITIGATION AND FUEL ELIMINATION**

This Memorandum of Understanding (“MOU”) is made and entered into by and between the City of Rapid City (“City”), located at 300 6th Street, Rapid City, South Dakota 57701, and the Rapid City Area School District, located at 300 6th Street, Rapid City, South Dakota 57701 (“School”).

WHEREAS, School owns several parcels of real property throughout Rapid City, including parcels adjacent to Wildland Urban Interface neighborhoods (“the Property”); and

WHEREAS, the Property is forested and covered with timber; and

WHEREAS, the Property’s vegetation could pose a wildfire threat; and

WHEREAS, City wishes to enter the Property to perform fuel modification activities to decrease the wildfire threat to School and to the neighboring properties as part of its Urban Interface Management Plan operated under the Survivable Space Initiative.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and the mutual benefits and responsibilities flowing to each party as outlined in this Agreement, the parties agree to the following terms:

1. Recitals. The recitals set forth above constitute an integral part of this MOU and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.
2. School Obligations. School agrees to allow City to enter the Property to conduct the wildfire mitigation activities described below.

If School is aware of any features, either natural or artificial, which may pose a danger to employees of City who enter the Property, School agrees to notify City of the same no later than one day before entry is expected, or when the feature is discovered, whichever is earlier.

3. City Obligations. If the City’s Fire Official determines that wildfire mitigation and fuel modification activities are to be performed, City agrees that it may elect to perform the following activities:
 - a. eliminate the ponderosa pine stands between the parking lots and next to Stevens High School;
 - b. modify the fuel load in the ponderosa pine stands on the Corral Dr School property at large;
 - c. modify the fuel load in the ponderosa pine stands on the Stevens High School property at large; and
 - d. modification of fuels on the Property as part of its Urban Interface Management Plan.

The parties agree that there is no obligation for City to perform any wildfire mitigation or fuel modification activities on the Property. The School agrees that it does not have any right under this Agreement to demand that City enter or perform any activity on the Property, nor does School have a right to dictate or direct how City performs any activities it elects to perform on the Property.

In the event that City decides it no longer wishes to perform the fuel modification or wildfire mitigation activities, it agrees to notify School within ten working days of any such decision.

City agrees to contact the School at least two days in advance of City's entrance onto the Property to initiate the wildfire mitigation and fuel modification activities. City agrees to contact the School once wildfire mitigation and fuel modification activities are complete.

5. Costs. The parties agree that City will perform any wildfire mitigation or fuel modification activities at its own cost, and that School will not be responsible for any payment for such activities. Nothing in this agreement may be construed to obligate the School to any current or future expenditure of resources. Nor does this agreement obligate the School to spend funds on any particular project or purpose even if funds are available.

The parties agree that City will dispose of the fuel and materials which it removes from the Property and that School retains no further rights to or responsibilities for the fuel or materials.

6. Hold Harmless. School agrees to hold City harmless from and against all liability, claims, damages, demands and causes of action for injuries, losses or damages that the School may have arising out of City's performance of this Agreement, other than liability, claims, damages, demands, and causes of action for injuries, losses or damages to others that are not a party to this MOU.

7. Term. The term of this Memorandum of Understanding shall be for a term of eighteen (18) months to commence on the date this MOU is signed.

Either party may terminate this MOU at any time and for any reason by providing written notice to the other party at least thirty (30) days prior to the intended date of termination.

8. Effective Date. This MOU shall be effective upon execution by both parties.

9. Time of Essence. Time is of the essence of this MOU.

10. Amendments. This MOU may only be amended by a written document duly executed by all parties.

11. Entire Agreement. This MOU constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

12. Counterparts. This MOU may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one MOU.

13. Headings. The headings and numbering of the different paragraphs of this MOU are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

Dated this ____ day of _____, 2015.

CITY OF RAPID CITY

Mayor

Attest

Finance Officer

(seal)

RAPID CITY AREA SCHOOL DISTRICT

By _____

Its Manager of Construction and Maintenance