

**AN AGREEMENT BETWEEN THE CITY OF RAPID CITY AND PENNINGTON
COUNTY FOR THE USE AND MAINTENANCE OF CERTAIN LAND LOCATED
ADJACENT TO THE CENTRAL STATES FAIR GROUNDS.**

WHEREAS, the City of Rapid City (the “City”) owns park land located within the Rapid City Greenway Tracts along Rapid Creek which is adjacent to land owned by Pennington County (the “County”); and

WHEREAS, the land owned by the County is currently leased to the Central States Fair, Inc. (“Central States”) for purposes of operating the Central States Fair and other events through the course of the year; and

WHEREAS, the parties previously entered into an agreement whereby Central States was allowed to use several of the City owned parcels adjacent to the fair grounds for purposes of parking; and

WHEREAS, the City has no current use for the property it owns on the north side of Rapid Creek; and

WHEREAS, the City has a bike path located partially on County owned property on the south side of Rapid Creek; and

WHEREAS, the County has offered to maintain the City owned property on the north side of the creek at its own expense; and

WHEREAS, the City has offered to maintain the County owned property on the south side of Rapid Creek at its expense.

NOW THEREFORE, the parties agree as follows:

1. The County will allow the City to use, occupy and maintain the following County owned property which is described as:

That portion of the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) & the West 10 acres of the Southeast Quarter of the Northeast Quarter (SW1/4 NE1/4), Unplatted; and the North 1080 feet of the East 30 acres of the Southeast Quarter of the Northeast Quarter, Unplatted, Township One North (T1N), Range Eight East (R8E) of Section Six (6), located to the east of Cherry street and south of Rapid Creek;

The City will be allowed to use this property for any appropriate park purpose, which includes the currently existing bike path, and will be solely responsible for the maintenance and upkeep of this property for the term of the agreement. The City shall obtain the approval of the County prior to constructing any permanent structures on this property including paved parking.

2. The City will allow the County to use, occupy and maintain the following City owned property which is described as:

Lots A and B of Tract 34, Rapid City Greenway Tract and that portion of Tract 35 of the Rapid City Greenway Tract located north of Rapid Creek;

The County will be allowed to use this property for any appropriate park purpose and will be solely responsible for the maintenance and upkeep of this property for the term of the agreement. The County shall obtain the approval of the City prior to constructing any permanent structures on this property including paved parking.

3. The County agrees that any work done on the City owned property will comply with all applicable laws and ordinances, including but not limited to regulations on construction, trenching, grading and flood plains. The County also agrees to submit any project involving these parcels for review by the Rapid City Planning Commission pursuant to SDCL 11-6-19.
4. The County further agrees the City retains the right to enter onto the above described property to maintain and/or replace any public utilities currently located there.
5. The County and City shall hold each other harmless from any liability arising out of the use, occupancy or maintenance of the above property while it is under the control of the other party. The City and County further agree that the party actually responsible for use and maintenance of the above described property will defend the party actually owning the land against any claims arising out of the use, occupancy and/or maintenance of the property which is under the other parties actual control.
6. This agreement is for a term of one (1) year from the date it is approved by both parties and shall be automatically renewed, provided, however, either party can terminate the agreement on providing thirty (30) days written notice to the other party.
7. This agreement is in addition to the agreements previously entered into between the City and Central States on July 20, 1998, and February 7, 2000, with respect to parking. Nothing in this agreement shall be deemed to alter any of the respective rights or obligations of the parties with respect to the parking agreements. This agreement, along with the two agreements previously referenced, are the entire agreement of the parties no other writings are a part of this agreement. All other prior representations, writings, oral statements or negotiations have been merged into this agreement and are either included herein or intentionally excluded.
8. If any section(s), or provision of this agreement are declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision of this agreement if they can be given effect without the invalid section(s) or provisions.
9. This agreement can only be amended in writing by the consent of all the parties hereto.
10. The parties' rights and obligations under this agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota. Any dispute concerning this agreement shall be venued and litigated in the Circuit Court for the Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

Dated this _____ day of _____, 2007.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

Dated this _____ day of _____, 2007.

PENNINGTON COUNTY

Commission Chair

ATTEST:

Julie Pearson, Auditor