

JOINT POWERS AGREEMENT FOR PENNINGTON COUNTY
EMERGENCY SERVICES COMMUNICATIONS

This Agreement is hereby made and executed this _____

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 creates a unified emergency communication system to provide efficient utilization of resources which results in improved 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 following agreement, terms and conditions herein contained:

1. 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 created 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".
 - c. When the County and City are referred to collectively the term "Parties" shall be used.
2. DURATION: This Agreement shall be perpetual in duration and may only be terminated pursuant to the conditions set forth herein.
3. PURPOSE: The Parties recognize that consolidated public safety communications within Pennington County provides the most efficient method of dealing with the services to the public that are provided by each aforementioned party. The entity created pursuant to this Agreement shall be known as the Pennington County Emergency Services Communications Center, hereinafter referred to as "ESCC." The ESCC shall be designated a Public Safety Answering Point (PSAP) and fulfill the responsibilities of all public safety communications. Public safety communications shall be considered to mean, but shall not be limited to, emergency and non-emergency telephone answering requiring public safety agency response, dispatching emergency services responders and vehicles, alarm monitoring and such other communications compatible with the purpose of this agreement. The answering of 9-1-1 telephone lines will be limited to the geographical and jurisdictional boundaries within Pennington County, unless contractually

obligated in accordance with section 5.g below. Such public safety communications shall also include the maintenance of essential records and such other support functions as are necessary to fulfill this Agreement, including the maintenance of essential electronic/radio equipment.

5. **ESC USERS BOARD:** The Emergency Services Communications Users Board shall consist of eight (8) 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, the Superintendent of the South Dakota Highway Patrol, the Secretary of the South Dakota Department of Public Safety, a representative of the Pennington County Commission, a representative from the Rapid City Common Council, and a representative of the Pennington County Volunteer Fire Services. Any of the above cited members unable to attend a meeting or otherwise fulfill duties may designate an alternate by informing the other board members, in writing. Designated Alternates shall have vote authority unless/until that authority is revoked by the granting member, provided written notice is supplied to the other board members. All motions of the ESC Board shall require a five (5) person majority vote to affect a change on policy or procedure.

- a. **EXECUTIVE COMMITTEE:** Within the ESC Board, there is an Executive Committee comprised of the Sheriff of Pennington County, the Police Chief of Rapid City, the Fire Chief of Rapid City, and the Superintendent of the South Dakota Highway Patrol. The Executive Committee shall have the authority to set and enforce priorities, policy and employment standards for the ESC Director.
- b. **CHAIRPERSON:** The positions of Chairperson and Vice Chairperson of the ESC Board shall be held only by a member of the Executive Committee. These positions shall be a one year term, elected by a majority vote of the ESC Board. The Chairperson and Vice Chairperson shall be voting members of the ESC Board. The Chairperson shall preside over all meetings. If the current 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. The Chairperson or Vice Chairperson shall be the primary contact for day to day assistance to the Director.
- c. **MEETINGS:** The ESC Board shall meet regularly four times annually, generally once each calendar quarter. Special meetings of the ESC Board may be held at any time or location upon the request of any member of the Board or the Director.
- d. **POWER:** It is expressly understood by the Parties to this Agreement that the only powers delegated to the ESC Board are those dealing with public safety communications. All other powers granted by law to each of the Parties are expressly reserved.
- e. **AUTHORITY:** The ESC Board shall have full authority to:
 1. Apply for, receive and expend grants of money from any local, state or federal government and from any private individuals, foundation or corporation.
 2. 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.
- f. Further, the ESC Board, acting through the Director shall assume the additional responsibility of:
 1. Planning, organizing, control, and management of the emergency communications system and such related programs as may be utilized by the parties;
 2. Providing physical maintenance of electronic equipment used to transmit public safety communications owned by, or under the control of, the Parties; and

3. Preparing current short and long range plans for the efficient, cost effective maintenance of the emergency communications system including electronic equipment.
- g. **CONTRACT SERVICES:** The ESC Board may enter into specific contractual agreement with any other county, city, political subdivision, incorporated municipality, government agency/department or emergency services department that chooses to have the ESCC provide emergency communications functions. These contractual arrangements shall be compensated in one of three methods of financial obligation:
 1. For agencies that do not collect 9-1-1 surcharge OR that 9-1-1 surcharge revenues are not remitted to the ESCC: financial obligation is the percentage determined by use of services for the previous fiscal year multiplied by the total annual ESCC budget.
 2. For government entities that collect 9-1-1 surcharge revenue OR that 9-1-1 surcharge revenue for that entity/jurisdiction is remitted to the ESCC: financial obligation is all 9-1-1 surcharge revenue collected and/or percentage determined by use of services for the previous fiscal year multiplied by the annual ESCC budget after reduced by 9-1-1 revenue.
 3. For all others: financial obligation is recorded in the joint powers agreement or contract for services.

7. **DEPARTMENT:** Pennington County Emergency Services Communications shall be designated as a Department of Pennington County subject to all rights and responsibilities provided pursuant to the policies and procedures of Pennington County.

- a. The department head shall be the Director of Pennington County Emergency Services Communications, hereinafter called "Director." The Director shall be selected and hired by the ESC Users Board Executive Committee. The Director shall have general administrative and supervisory control over the functions and activities of the ESCC and the employees hired by or furnished to the ESCC and shall perform such specific tasks and duties as may be assigned by the ESC Users Board. The ESC Board shall, by a six (6) person majority vote, have the power to terminate the Director and hire another at its discretion. The usual channels of appeal shall be available to the aggrieved Director as provided by Pennington County personnel regulations.
- b. The Director and all of the employees hired to staff the ESCC shall be considered employees of Pennington County, subject to the personnel rules and regulations of the County.

8. **FACILITIES AND EQUIPMENT:** The ESCC shall be located in a Pennington County Building in Rapid City, South Dakota. 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.

- a. In the event capital assets/equipment must be acquired, the Director shall prepare appropriate bid specifications and bid evaluations. 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 recorded in the County Auditor Office.
- b. The ESCC will maintain the equipment on inventory, either by maintenance contract or by other arrangement deemed suitable at the direction of the ESC Board.

- c. Pursuant to the directions of the U.S. Department of Justice, National Crime Information Center (NCIC), Part IV of NCIC Computerized Criminal History Program, NLETS policies governing the interstate exchange of criminal justice information, and policies of South Dakota Law Enforcement Telecommunications Systems (SDLETS), it is agreed that all computer terminals utilized for the purpose of information exchange with restricted Law Enforcement Applications and Interstate Identification Index background checks will be under the control of the Law Enforcement members of the ESC Board.

9. OPERATIONS: The operations of the ESCC shall be governed by the following general operating parameters:

- a. The fiscal year shall be the calendar year. The budget shall be approved by the County Commission and the Common Council. Prior to budget approval, the Director and ESC Board shall meet and agree upon a proposed budget. The budget, as approved, shall include all costs necessary to carry out ESC functions. Notification will be given to the City of all requested budget supplements.
- a. The budget as approved shall be administered by Pennington County. The City shall remit on a monthly basis, reimbursement to the County for expenses incurred. The City shall be responsible for two-thirds (2/3) of the total outstanding costs of the operation and the County shall provide one-third (1/3) of all total outstanding costs.
- b. At the end of each fiscal year, the County Auditor and City Finance Director shall confer and determine any adjustments which might be necessary to achieve the full foregoing reimbursements.
- c. All fees acquired from the users of the communications system or any of its assets or resources shall be deposited with the County Treasurer and shall be considered as part of the anticipated revenues as determined in its annual budget.
- d. All 9-1-1 Surcharge revenues acquired in accordance with SDCL 34-45-4 shall be deposited with the County Treasurer and shall be considered as part of the anticipated revenues. 9-1-1 Surcharge revenues shall only be spent in accordance ARSD 50:02:04:07 (1 – 8); ARSD 50:02:04:08; ARSD 50:02:04:09 (1-2); ARSD 50:02:04:10 (1-4); ARSD 50:02:04:11; ARSD 50:02:04:12; and ARSD 50:02:04:13.

10. TERMINATION: The Parties hereto may terminate this Agreement by a majority vote thus dissolving the ESCC. Such mutually agreed termination by the Parties to this agreement shall take place no earlier than one hundred eighty (180) days after written notice of termination from the ESC Board to all emergency service entities receiving service.

11. UNILATERAL TERMINATION: In the event of a unilateral termination by any Party, it is hereby understood and expressly agreed by all Parties to this Agreement that all contributions of any kind are to be forfeited by the withdrawing party and retained by the ESCC. All financial obligations to the ESCC 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 the ESCC. 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 area.

12. DISSOLUTION: Upon dissolution, all property listed on the inventory of the ESCC 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 the ESCC.

13. AMENDMENTS: This Agreement may be amended, modified or altered only by a simple majority vote of the ESC Board and upon the Agreement thereto by the City and the County.

14. GENERAL CONDITIONS

- a. Recordkeeping and Audits: The Parties to the 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 emergency enforcement 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: Through errors and omissions, negligence or intentional acts, if either Party to this Agreement causes damage or loss to any other Party whether to files, programs, records, data, equipment, hardware or software, or otherwise, the Party causing such damage shall indemnify the injured Party and shall hold the injured Party harmless for all such damages, costs, reasonable attorney fees and related expenses.
- 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 said policy. Such certificate or policy will be furnished annually and will provide that the policy cannot be cancelled without thirty (30) day 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, religion, sex, national origin, age, gender or disability.

IN WITNESS WHEREOF, the Parties hereto agree and do now set their hands and seals in execution of this Agreement on this _____.

PENNINGTON COUNTY

By _____
LYNDELL PETERSON, Chairman Date
Pennington County Commission

CITY OF RAPID CITY

By _____
SAM KOOKIER, Mayor Date
City of Rapid City