

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND  
PENNINGTON COUNTY FOR TRAFFIC SIGNAL AT  
SHERIDAN LAKE ROAD AND DUNSMORE ROAD**

This Agreement is made and entered into by and between the City of Rapid City, a South Dakota municipal corporation, with its principal office located at 300 Sixth Street, Rapid City, South Dakota 57701 (“City”), and Pennington County, a political subdivision of the State of South Dakota, with its principal office located at 130 Kansas City Street, Rapid City, South Dakota 57701 (“County”).

WHEREAS, in August 2016, County constructed improvements at the intersection of Sheridan Lake Road and Dunsmore Road to install a traffic signal (“Traffic Signal”) outside of the City limits, but within the City’s extraterritorial jurisdiction, as part of its Project TS 2016 Sheridan Lake Road & Dunsmore Road Traffic Signal Project; and

WHEREAS, the Traffic Signal project was initiated by County after consultation with the City, and both parties agreed that the proper warrants for a traffic signal were met for the intersection and that installation of the Traffic Signal would improve traffic flow during peak hours; and

WHEREAS, the parties agree that if the County installed the Traffic Signal, then the City would agree to be responsible for future costs for the Dunsmore Traffic Signal even though it is located outside of City limits; and

WHEREAS, the County installed the Traffic Signal at the request and for the benefit of the City for the purpose of facilitating traffic flow on and from Dunsmore Road; and

WHEREAS, thereafter, County contracted with HDR Engineering to design the Traffic Signal project and Muth Electric, Inc. to construct and install the necessary improvements for the project; and

WHEREAS, the Traffic Signal is located within the legal jurisdiction of the County for traffic regulation, but both parties anticipate that it will be located within the City at some point in the future; and

WHEREAS, the parties now wish to set forth in this Agreement the continuing obligations and responsibilities of County and City for the Traffic Signal improvements until such time as they are located within the City limits.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.
2. County Obligations.
  - A. County shall be responsible for costs associated with the design and installation of the Traffic Signal.
3. City Obligations.
  - A. From the date of this Agreement, City shall continue operation and maintenance of the Traffic Signal and its appurtenances. City shall be responsible for all routine maintenance, including signal head cleaning, inspection, and adjustments; controller inspections; and cabinet weathering on the same schedule as performed for other signals under City's jurisdiction. Maintenance responsibilities include replacement, in kind, of all parts and apparatus of said system to ensure the continuing operation of the Traffic Signal.
  - B. City shall be responsible for any utility costs associated with the Traffic Signal.
  - C. City shall receive signal operation complaints and shall conduct field review, as necessary, and shall otherwise address such complaints.
  - D. City shall repair all damage to the Traffic Signal and its components at its own cost.
  - E. In the event of damage to the Traffic Signal or its appurtenances due to vehicular accident or other damaging event, City will perform necessary repairs and shall seek payment from the responsible party, if applicable.
  - F. The parties agree that City shall have the responsibility to program and adjust the timetable and other settings of the Traffic Signal. City shall work with the County Highway Superintendent or his/her designee to make adjustments to the timetable and other settings that are agreeable to both parties. The parties agree that if City needs to adjust the programming to troubleshoot or repair the traffic lights, then City shall timely seek approval from the County Highway Superintendent to finalize any such adjustments.
  - G. City shall be responsible for all costs to perform these City Obligations, including, but not limited to, costs for personnel, benefits, equipment usage, parts, rentals, and contractor work.

4. Liability of the Parties. The parties agree that County shall be responsible for all costs, claims, damages, losses, and/or expenses resulting from the acts or omissions of County or County's employees, agents and assigns, including but not limited to County's design and construction of the Traffic Signal and its appurtenances as provided in this Agreement.

The parties agree that City shall be responsible for all costs, claims, damages, losses, and/or expenses resulting from the acts or omissions of City or City's employees, agents, and assigns, including but not limited to City's operation and maintenance of the Traffic Signal and its appurtenances as provided in this Agreement.

5. Relationship between the Parties. This Agreement does not create an employment relationship between the City and the County or its officers, directors, agents or employees. Nothing contained in this Agreement is intended to create a partnership, joint venture, or other legal entity. No agent of the County shall be the agent of the City, nor shall any agent of the City be an agent of the County.

6. Effective Date. This Agreement shall be effective upon execution by both parties and shall remain in effect until such time as the intersection of Sheridan Lake Road and Dunsmore Road is entirely within the City limits or the Agreement is terminated pursuant to Section 7.

7. Termination. This Agreement may be terminated only upon the written consent of both parties.

8. Notices. All notices and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a party when either (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid) or (b) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the addresses designated below (or such other address as a party may designate by notice to the other parties):

City of Rapid City  
Attn: Public Works Director  
300 Sixth Street  
Rapid City, SD 57701

Pennington County  
Attn: Highway Superintendent  
3601 Cambell Street  
Rapid City, SD 57701

9. Additional Terms.

A. Waiver. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

- B. Amendment. This Agreement may be amended only by a written document duly executed by both parties.
- C. Third Parties. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein shall give or be construed to give any person or entity, other than the parties hereto, their respective successors, and permitted assigns, any legal or equitable rights hereunder.
- D. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement in which a definite time for performance is specified; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period provided for in this Agreement.
- E. Entire Agreement and Binding Effect. This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written. This Agreement is binding upon, and shall inure to the benefit of the parties themselves, as well as their respective representatives and successors.
- F. Severability. If any provision of this Agreement is held unenforceable by a court of competent jurisdiction such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.
- G. Enforceability. This agreement is intended solely for the benefit of the parties hereto and shall not be enforceable by, or create any claim of right or right of action, in favor of any other party.
- H. Headings. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.
- I. Construction and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation shall be resolved in the Circuit Court of Pennington County, South Dakota.
- J. Integration. This Agreement and the agreements and documents referred to herein (including any exhibits and schedules incorporated herein) contain the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior agreements, negotiations, and understandings, whether written or oral, relating to the subject matter hereof.



