

LAW ENFORCEMENT AGREEMENT BETWEEN THE CITY OF RAPID CITY  
AND SOUTH DAKOTA SCHOOL OF MINES AND TECHNOLOGY

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WHEREAS, the City of Rapid City (“City”), through its Police Department and the Rapid City Chief of Police (“City Chief”), has responsibility for law enforcement in the City of Rapid City;

WHEREAS, South Dakota School of Mines & Technology (“SD MINES”), a public institution of higher education under the control and management of the South Dakota Board of Regents, has a responsibility to its students, faculty, and the community of Rapid City to provide a safe learning environment and protect its physical grounds and property; and

WHEREAS, the City and SD MINES agree that it is to their mutual benefit for University Police Department (“UPD”) personnel at SD MINES to have the status as Rapid City Police Department police officers to provide law enforcement efficiency and consistency for the benefit of the City, the students, faculty, and staff of SD MINES, and the State of South Dakota.

NOW, THEREFORE, the City and SD MINES (“the Parties”) agree as follows:

1. Designation as Officer: SD MINES may designate qualified persons to be appointed as police officers for SD MINES (“UPD Officer Candidate(s)”). Appointment(s) as an SD MINES Police Officer (“UPD Officer”) shall be made with the approval of the City Chief, and after such approval and upon swearing to the required oath, a UPD Officer shall also have the status of a police officer of the Rapid City Police Department (“City Police Officer”).

SD MINES will designate a Chief of Police for the UPD (“UPD Chief”). Only a UPD Officer (who has been approved by the City Chief to also have the status of a City Police Officer and who has sworn to the required oath) is eligible to be designated as the UPD Chief.

2. Recruitment and Authorization of UPD Officer(s): The UPD will follow established SD MINES and State of South Dakota policies and procedures for recruiting, screening, and hiring UPD Officer Candidates. SD MINES will include one member selected by the City and one member mutually selected by the City and SD MINES in its search committees. SD MINES shall recommend UPD Officer Candidates to the City Chief for review prior to final appointment. SD MINES shall provide information concerning background, work history, and other pertinent information for the evaluation of the UPD Officer Candidate’s fitness for appointment as a police officer. The City shall be diligent in its review of the UPD Officer Candidate and shall inform UPD of acceptance or rejection of the UPD Officer Candidate as soon as possible. If a candidate is rejected, the

City will provide written documentation outlining the justification for the rejection.

While SD Mines is ultimately responsible for the underlying employment and selection of UPD Officer Candidates, all UPD Officer Candidates selected to fulfill the duties of a UPD Officer must be appointed by the City Chief prior to commencement of their duties as a UPD Officer. A UPD Officer must be certified by the South Dakota Law Enforcement Officers Standards and Training Commission as a certified law enforcement officer within one year of the UPD Officer commencing his or her duties as a UPD Officer or already be a South Dakota certified law enforcement officer.

3. Authorization as Law Enforcement Officers and Other Duties: All UPD Officers who have been duly sworn as police officers are hereby authorized as law enforcement officers of the City pursuant to South Dakota Codified Law 9-29-19 and amendments thereto, and in accordance with their appointment and this Agreement. Persons appointed as police officers pursuant to this Agreement may perform tasks that are unrelated to law enforcement at SD MINES while also holding appointment as police officers. Assignment of other tasks by SD MINES will be made in a manner that will not result in a conflict with their performance as police officers.
4. Scope of Authorization: UPD Officers shall limit their law enforcement duties to the City of Rapid City main campus of SD MINES, other property owned or leased by SD MINES in the City of Rapid City, and city blocks contiguous thereto (collectively and individually referred to as “on-campus”). UPD Officers may also perform law enforcement duties if they are off campus (i.e., not on-campus) for a valid official reason and observe an apparent violation of state law or city ordinance. UPD Officers shall perform law enforcement duties in a manner that complies with the currently adopted policies, rules, and procedures of the UPD and the Rapid City Police Department. If there are any conflicts between the City of Rapid City and UPD policies, rules, and procedures, the City Chief or designee and UPD Chief shall identify the conflict and develop a mutually acceptable policy or rule or provide a procedure to resolve the conflicting provision.

City Police Officers shall provide the UPD with notice in accordance with best practices if their activities require them to be on-campus. Similarly, UPD Officers shall provide notice to the Rapid City Police Department in accordance with best practices if their activities require them to be off-campus.

5. Training: UPD Officers shall meet the required minimum standards of training for a law enforcement officer as provided by South Dakota law and by the South Dakota Law Enforcement Officers Standards and Training Commission, and such further standards as the City may from time to time reasonably require. The training procedures shall be substantially identical, except for differences related

to equipment/weapons unique to each department. In the interest of promoting consistency in cross-training, the City and SD MINES will collaborate by sharing training resources. In recognition of unique characteristics of the campus and community law enforcement environments, the Chiefs shall mutually develop a cross-training program to develop skills of City Police Officers for campus and SD MINES property law enforcement and UPD Officers for community law enforcement. It is agreed that each new officer for each department shall be provided one training and familiarization shift with a Field Training Officer (“FTO”) from the other unit. If it is determined by the FTO that an additional training and familiarization shift(s) are necessary, the training agency agrees to provide such additional training. Newly-appointed officers shall receive this training program within the first six (6) months of appointment. Both Parties shall seek to develop and implement opportunities for mutual training, utilizing resources of each department where practical.

6. Access to Reports: The Parties to this Agreement agree to provide mutual access to law enforcement records that could lead to investigations and incidents of criminal nature impacting their respective jurisdictions and any related legally-required reporting requirements. Reports provided to SD MINES’ officials shall be treated as “Confidential,” meaning that no SD MINES official has the authority to reproduce, disseminate, or provide for review said report to any other individual without a “need-to-know” basis (including but not limited to: students, faculty, or other SD MINES officials) without prior express written authorization by the head of the originating agency or the Pennington County State’s Attorney or his/her designee. Requests for reports by another entity or individual to an SD MINES official, who has previously been provided reports, should be directed to the UPD, the originating agency, or the Pennington County State’s Attorney’s Office. A “need-to-know” basis shall be determined by the head of the providing agency and/or in an emergency situation by the UPD Chief or a designee on a case-by-case basis. When making the determination of who reports should be disseminated to, the UPD Chief or said designee shall consider: public safety, the safety of SD MINES students, faculty and staff, the implications of impeding an ongoing investigation, constitutional and statutory rights of victims and accused, and any other statutory or constitutional provisions that he/she believes may be implicated by the sharing of said information.

Any reports, witness statements, or other documents created by UPD for law enforcement purposes shall at all times be considered law enforcement records and be maintained solely by UPD within SD MINES. Reports initiated or created by UPD may be shared, but not copied if they are the subject of an ongoing law enforcement investigation, with appropriate officials within SD MINES as required by UPD’s responsibilities under SD Board of Regents policy and federal law. SD MINES is solely responsible for ensuring that any information shared between SD MINES employees is not publicly disclosed in violation of Article VI, Section 29, of the South Dakota Constitution. SD MINES officials shall avoid interference with ongoing police investigations and shall

communicate with the Rapid City Police Department and/or the Pennington County State's Attorney's Office to coordinate actions and timing where possible to minimize such interference. Nothing contained in this section shall be read to alleviate or otherwise circumvent the confidentiality requirements applicable to SD MINES pursuant to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g).

7. Disciplinary Actions:

- a. Notice of Disciplinary Action: The City shall be notified of any disciplinary action and substantiated complaints leading to disciplinary action involving UPD Officers in the deployment of their law enforcement duties. This information will be provided within the confidentiality parameters set by South Dakota law and South Dakota Bureau of Personnel guidelines.
- b. Disciplinary Action Process: SD MINES shall issue all discipline and discharge actions consistent with all rules, regulations, and policies of the State of South Dakota, Board of Regents, South Dakota School of Mines & Technology, and UPD.
  - i. The City Chief may suspend or revoke the appointment of a UPD Officer for just cause based upon the City's, State's, or SD MINES's policies. In the event of such action, the City shall notify the UPD Chief of this action and the basis for this action. Such suspension or revocation immediately suspends or revokes the authority of the individual to act as a law enforcement officer of the City pursuant to SDCL 9-29-19, and amendments thereto, until final resolution of appropriate discipline, discharge, or reinstatement. A UPD Officer whose appointment has been suspended or revoked by the City Chief may be retained by SD MINES for functions other than as a law enforcement officer pursuant to Section 3 above.
  - ii. A UPD Officer whose appointment by the City has been suspended or revoked shall have the right to appeal that action and request a hearing. Such appeal and request for a hearing must be initiated in writing to the City Chief (with a copy to the UPD Chief) within five (5) working days of the date the appointment was suspended or revoked. Failure to appeal and request a hearing within that time frame shall result in the ability to appeal being waived.
  - iii. In the case of an appeal, a review board shall be established consisting of two members appointed by the City, two members appointed by SD MINES, and one member mutually appointed by

the City and SD MINES. The review board shall conduct a hearing within thirty calendar days from the date the appeal is received. The review board will deliver a written recommendation to the SD MINES Director of Facilities & Risk Management, or his or her successor, and the City Chief for a final decision within ten (10) calendar days after the hearing. Should the SD MINES Director of Facilities & Risk Management and the City Chief agree that the appointment was unjustly revoked, the officer's appointment shall be fully restored by the City Chief. However, the City Chief retains final authority over UPD Officer appointment status pursuant to Sections 1, 2, and 3 of this Agreement.

c. South Dakota Law Enforcement Officers Standards and Training

Commission: The City, SD MINES, or the employee may pursue other procedures before the South Dakota Law Enforcement Officers Standards and Training Commission, which has the ultimate authority concerning a police officer's commission.

8. Employment-related Costs: SD MINES will be responsible for all costs incurred for wages, benefits, training, equipment, and uniforms for its employees. Costs associated with joint training shall be mutually agreed upon by the Parties to this Agreement prior to implementation of the training.
9. Notice of Employment Discontinuation: SD MINES agrees to notify the City when UPD Officers cease employment so the City can maintain accurate rosters of current personnel.
10. Indemnification: Nothing in this Agreement shall be construed as an indemnification by one Party of the other for liabilities of a Party or third persons for property loss or damage or death or personal injury arising out of the performance of this Agreement. Any liabilities or claims for property loss or death or personal injury by a Party to this Agreement or its agents, employees, contractors, or assigns or by third persons, arising out of and during this Agreement shall be determined according to applicable law.
11. Insurance: SD MINES and the City shall each maintain occurrence-based general liability insurance or equivalent form, with a limit of not less than \$1,000,000 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement and shall be no less than two times the occurrence limit. The City of Rapid City understands and agrees that SD MINES is subject to the limitations of liability set forth in SDCL Chapters 3-21 and 3-22; that SD MINES participates in the Public Entity Pool for Liability Agreement; and the coverage provided thereunder constitutes SD MINES's sufficient coverage for this section.

12. Workers' Compensation: All officers in the course of their duties shall remain employees of their employing agency, the Parties are not joint employers, and, therefore, shall continue to be covered by their employing agency for the purpose of Workers' Compensation. The Parties to this Agreement shall comply with the Workers' Compensation requirements of South Dakota law.
13. Joint Powers: The appointments and authorizations contained herein do not constitute a joint exercise of powers pursuant to SDCL Chapter 1-24.
14. Mutual Communication: The Parties to this Agreement agree to have their representatives conduct joint meetings as often as deemed necessary, but no less than annually, and as requested by either Party during the term of this Agreement to discuss issues of mutual interest and concern in regard to the performance of this Agreement. It is anticipated that items brought forward during the meetings may result in amendments to this Agreement. All such amendments shall be in writing by the duly authorized representatives of the Parties to this Agreement.
15. Choice of Law: The Parties to this Agreement will comply with all laws applicable to this Agreement and the performance thereof. This Agreement is governed by and shall be construed in accordance with the laws of the State of South Dakota and any lawsuit pertaining or related thereto shall be venued in the courts of Pennington County, South Dakota.
16. Failure of Appropriation: This Agreement depends upon the continued availability of appropriate funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate or grant expenditure authority or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State and SD MINES. Termination for any of these reasons is not default by the State and SD MINES, nor does it give rise to a claim against the State of South Dakota or SD MINES.
17. Agreement Term: The term of this Agreement shall be one (1) year from the date that this Agreement is signed by both Parties, unless extended by mutual written agreement. Either Party may, by giving sixty (60) days written notice to the other, revoke or rescind this Agreement for any reason.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF RAPID CITY

By: \_\_\_\_\_  
Karl Jegeris, Chief of Police

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

SOUTH DAKOTA SCHOOL OF MINES & TECHNOLOGY

By: \_\_\_\_\_  
James M. Rankin, President