

**AN AGREEMENT BETWEEN THE CITY OF RAPID CITY AND
BLACK HILLS FEDERAL CREDIT UNION FOR EXCHANGE OF REAL PROPERTY**

This Agreement is made this _____ day of _____, 2020, by and between the **CITY OF RAPID CITY**, of 300 Sixth Street, Rapid City, SD 57701 (the “City”), and **BLACK HILLS FEDERAL CREDIT UNION**, of PO Box 1420, Rapid City, SD 5770 (“BHFCU”).

WHEREAS the City and BHFCU own property that is legally described below; and

WHEREAS the parties wish to exchange the properties; and

WHEREAS SDCL 6-5-4 and SDCL 9-27-34.1 authorize the City to exchange real property with a private land owner upon completion of an appraisal under such terms and conditions as the City deems appropriate; and

WHEREAS, the parties have had the two properties appraised by a certified appraiser; and

WHEREAS, the parties agree that it is in the best interests of the parties to exchange their respective properties upon the terms and conditions contained herein.

NOW THEREFORE, it is agreed by the parties 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 as agreements of the parties.

2. City Property. The City owns property legally described as follows:

Lot 1 of Owen Hibbard Subdivision, located in Section 23, Township 1 North, Range 7 East of the B.H.M., Rapid City, Pennington County, South Dakota.

3. BHFCU Property. BHFCU owns property legally described as follows:

Tract A except Lots 1 and 2, Block 1, Owen Mann Tract together with Lot B of Lot 2 of Tract A, Block 1, Owen Mann Tract, all in Rapid City, Pennington County, South Dakota.

4. Property to be Exchanged. The parties agree that the City Property shall be transferred to BHFCU in exchange for BHFCU transferring the BHFCU Property to the City.

5. Consideration. The parties agree that no monetary consideration shall be paid by either party for the property to be exchanged pursuant to this Agreement. The parties agree that the mutual promises and covenants of the parties as contained in this Agreement, and the exchange of property as contemplated herein, is good and sufficient consideration for the parties’ performance under this Agreement.

6. Deeds. The parties agree that each will execute a quitclaim deed transferring the respective properties to the other party. The City agrees to prepare the deeds at its expense. Each party shall pay applicable recording fees. Both transfers are exempt from transfer fees.

7. Taxes. BHFCU agrees to pay all real property taxes payable in years 2019 and 2020.

8. 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. This Agreement may only be amended by a written document duly executed by all parties.

9. 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.

10. Waivers. No waiver of any term or provision of this Agreement shall be binding unless executed in writing by the party waiving such term or provision.

11. 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.

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

13. Further Action. The parties covenant and agree that each shall execute and deliver such further instruments or documents as shall be necessary or convenient to effectuate the purposes contemplated by this Agreement.

14. Construction. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against any party. 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. The parties agree that each party has reviewed this Agreement and has had the opportunity to have its counsel review the same. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

15. Choice of Law. This Agreement shall be governed and construed in accordance with the laws of the state of South Dakota, without regard for its choice-of-law principles, and all claims relating to or arising out of this Agreement, or the breach of the terms thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the state of South Dakota, without regard for its choice-of-law principles.

16. Jurisdiction and Venue. The parties hereto explicitly agree to submit to the personal jurisdiction of South Dakota state courts, and any dispute relating to or arising out of this Agreement, or the breach of the terms thereof, whether sounding in contract, tort or otherwise, shall be decided solely and exclusively by the Circuit Court located in Rapid City, South Dakota.

Dated this ____ day of _____, 2020.

BLACK HILLS FEDERAL CREDIT UNION

By _____
(signature)

(printed name)

Its _____
(title)

State of South Dakota)
) ss.
County of Pennington)

On this the ____ day of _____, 2020, before me, the undersigned officer personally appeared _____, who acknowledged him/herself to be the _____ of Black Hills Federal Credit Union, and that as such _____, being duly authorized to do so, executed the foregoing for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(seal)

Notary Public
My Commission Expires _____

Dated this ____ day of _____, 2020.

CITY OF RAPID CITY

By _____
Steve Allender, Mayor

Attest

Pauline Sumption, Finance Officer

(seal)

State of South Dakota)
) ss.
County of Pennington)

On this the ____ day of _____, 2020, before me, the undersigned officer, personally appeared Steve Allender and Pauline Sumption, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they, as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

(seal)

Notary Public, South Dakota
My Commission Expires _____