



# CITY OF RAPID CITY

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## Office of the City Attorney

300 Sixth Street

Rapid City, South Dakota 57701-2724

Telephone: 605-394-4140

E-mail: attorney@rcgov.org

www.rcgov.org

September 1, 2020

Samuel L. Potter  
Senior CPD Representative  
Office of Community Planning and Development: Region VIII  
1670 Broadway Street  
Denver, Colorado 80202-4801

**RE: Opinion of Counsel for City of Rapid City, Recipient  
Conflict of Interest Exception Request (Toennies)  
24 CFR § 570.611(d)(1)(ii) / 24 CFR § 570.489(h)(4)(ii)**

Ladies and Gentlemen:

The City of Rapid City is providing this opinion to you pursuant to 24 CFR § 570.611(d)(1)(ii) and 24 CFR § 570.489(h)(4)(ii) as those regulations apply to the CARES Act grant from the United States Department of Housing and Urban Development (HUD) to the City of Rapid City (the "City"). The City has requested an exception request to authorize consideration of the United Way of the Black Hills ("UWBH") as a qualified applicant, while its Executive Director, Jamie Toennies, is a member of the City's Community Investment Committee (the "Committee").

The Office of the City Attorney is the general counsel for the City of Rapid City, and exists pursuant to SDCL 9-14-23 and Chapter 2.16 of the Rapid City Municipal Code. All attorneys in the City Attorney's Office are licensed to practice law by the State Bar of South Dakota.

### *Factual Background*

Jamie Toennies currently serves as the Executive Director of UWBH, a South Dakota nonprofit corporation. She was appointed to the Committee in September of 2019 to fill a vacancy created by a previous member's resignation. Her term expires on October 2020.

The Committee was created by ordinance, and its primary purpose is to “make recommendations to the Common Council on the annual Community Development Block Grant sub-grantee selections, and the annual selection of non-profit grantee recipients of the general fund allocation made for that purpose.” *Rapid City Municipal Code (RCMC) Section 2.49.010*. As a member of the Committee, Ms. Toennies is “in a position to participate in a decision-making process or gain information with regard to such activities[.]” 24 CFR § 570.611(b). *Accord* 24 CFR § 570.489(h). She, as an appointed official for the City, is a covered person under 24 CFR § 570.611(c) and 24 CFR § 570.489(g).

To mitigate the conflict, the City has proposed a course of action that includes Ms. Toennies’ abstention from all consideration of funding requests of applicants for CARES Act grant funding. It also includes public notice disclosing the conflict and soliciting of public comment via publication in two local newspapers, direct email to over 200 individuals, and notice on the City’s website.

#### ***Compliance with State and Local Law***

In making my determination, I have reviewed the following:

1. 24 CFR part 570;
2. SDCL ch. 6-1, “Acts and Records of Local Officers”;
3. SDCL ch. 9-14, “Municipal Officers and Employees”;
4. RCMC 2.04, “Officers and Employees Generally”;
5. RCMC 2.49, “Community Investment Committee”;
6. Resolution 2016-096 of the Rapid City Common Council, A Resolution Adopting a Conflict of Interest Policy for Elected and Appointed Officials of the City of Rapid City;
7. *Hanig v. City of Winner*, 2005 SD 10, 692 N.W.2d 202; and
8. such other documents, instruments, and records as I have considered relevant for purposes of this opinion.

Based upon such examination, the factual background noted above, and such research and investigation as I deemed necessary, I am of the opinion that

1. Ms. Toennies has a conflict of interest in making application for grant funding on behalf of her employer while sitting on the committee that vets such applications. While Ms. Toennies does not have a direct pecuniary interest, an indirect pecuniary interest or personal interest may be present. *See Hanig*, supra at ¶ 19.
2. The appropriate remedy for such conflict is disclosure of the conflict to the Committee and her recusal as a member of the Committee from all consideration of applications made for CARES Act grant funding. *See* Resolution 2016-096; SDCL 6-1-17.

3. Such disclosure and recusal is legally sufficient, under the laws of the State of South Dakota and the City of Rapid City, to address the conflict of interest of a member of the Committee. *Id.*
4. Consideration of the application by United Way of the Black Hills by the Committee, a recommendation by the Committee of funding, and eventual approval by the City's Common Council of grant funding would not violate South Dakota or Rapid City law if such disclosure and recusal is accomplished. *Id.*
5. Ms. Toennies would not violate South Dakota or Rapid City law by remaining on the Committee to fulfill the duties of a committee member outside of the application process for CARES Act grant funding.

As to matters of law, we limit our opinion to the laws of the City of Rapid City, the State of South Dakota, and the United States of America, and our opinions are limited to the facts and laws in existence on the date of this opinion. This opinion is delivered to you in connection with the request for exception referenced above. It may not be utilized or quoted by you for any other purpose, nor may it be relied upon by any other person or entity other than your successors or assigns without our express written consent. Please feel free to contact the undersigned if you have any questions related to the content of this opinion.

Very truly yours,



Wade Nyberg  
Deputy City Attorney



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA

## CDBG PROGRAM DIVISION

300 Sixth Street

Rapid City, SD 57701-5035

(605) 394-4181

September 3, 2020

Samuel L. Potter  
Senior CPD Representative  
Office of Community Planning and Development: Region VIII  
1670 Broadway Street  
Denver, Colorado 80202-4801

### **RE: Conflict of Interest Exception Request (Toennies)**

Dear Ladies and Gentlemen:

Jamie Toennies serves on Rapid City's Community Investment Committee; she is also the Executive Director of United Way of the Black Hills. The Community Investment Committee makes CDBG funding recommendations to Rapid City's Common Council. United Way of the Black Hills has expressed an interest in applying for CDBG-CV funds to deliver a program that assists child care providers with COVID-related costs. A conflict of interest exists as United Way of the Black Hills will be a CDBG-CV applicant while the Executive Director participates in the decision making process with regards to CDBG activities.

An exception is requested to allow United Way of the Black Hills to be considered a qualified applicant while the Executive Director remains on the Community Investment Committee. If the exception is granted, Ms. Toennies will abstain from the decision making process with respect to the specific activity in question. No interest or benefit was present before Ms. Toennies was appointed as a committee member. The interest presented itself after the onset of the Coronavirus Pandemic and Ms. Toennies will not be a beneficiary of the proposed activity. Please see the opinion of counsel for the City of Rapid City as a continuation of the threshold requirements outlined in 24 CFR 570.611(d)(1)(ii) / 24 CFR 570.489(h)(4)(ii).

United Way of the Black Hills exhibits an essential degree of expertise in delivering public service programs and has developed financial management systems adequate for managing Federal funds.

A competitive opportunity has been provided to the public to apply for Rapid City's CDBG-CV funds. The funding opportunity was published in two local newspapers, posted on the City's website, and emailed to over 200 individuals. A public notice disclosing the conflict and soliciting comments will be published in two local newspapers and emailed to over 200 individuals if and when a CDBG-CV funding application is received by United Way of the Black Hills. All public comments will be considered.

The waiver request is to allow United Way of the Black Hills to be considered a qualified applicant as the Community Investment Committee makes funding recommendations to Rapid City's Common Council. Rapid City's CDBG-CV application deadline is September 18, 2020. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Schuelke", with a long horizontal flourish extending to the right.

Michelle Schuelke  
Manager, CDBG Program Division

Enclosure: Opinion of Counsel

# U. S. Department of Housing and Urban Development



Community Planning and Development

Region VIII, Denver  
1670 Broadway Street  
Denver, Colorado 80202-4801

Phone: 303-672-5414  
Fax: 303-672-5028  
Web: www.hud.gov

September 30, 2020

Michelle Schuelke, Manager  
CDBG Program Division  
City of Rapid City  
300 6th Street  
Rapid City, SD 57701-5035

**SUBJECT: Toennies Conflict of Interest Exception Request**

Dear Ms. Schuelke:

This letter is in response to the City of Rapid City's September 3, 2020 request to the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD) for an exception to the Community Development Block Grant (CDBG) Conflict of Interest provisions of 24 CFR § 570.611(b). HUD Region VIII's CPD and Office of Counsel has reviewed the City of Rapid City's request and CPD has included its conclusions below.

- A. Ms. Toennies is an appointed member to the City of Rapid City's Community Investment Committee and the Executive Director of the United Way of the Black Hills, a potential grant recipient of the City through the Community Investment Committee. These two positions held by Ms. Toennies do constitute a conflict of interest as per 24 CFR § 570.611(b) and (c).
- B. On September 3, 2020, the City of Rapid City requested in writing an exception to the provisions of the Community Development Block Grant Conflict of Interest provisions of 24 CFR § 570.611(b). The request included a letter from the City disclosing the nature of the conflict as per the first part of 24 CFR § 570.611(d)(1)(i); however, it did not include a public disclosure as indicated under 24 CFR § 570.611(d)(1)(i), only describing how the public disclosure would happen. Additionally, the request included an opinion from the recipient's attorney stating that if the Rapid City's Community Investment Committee member recused herself from decisions related to the non-profit in which she is the Executive Director and the public disclosures planned for in the two letters were carried out, neither the committee member nor the United Way of the Black Hills would be in violation of South Dakota or Rapid City law as required by 24 CFR § 570.611(d)(1)(ii).

Therefore, at this time, CPD cannot issue an exception to 24 CFR § 570.611. An exception may be granted to allow for an activity that constitutes a conflict of interest; however, the grant recipient must submit evidence of the public disclosure, the recipients attorney's opinion stating that the interest for which the exception is sought would not violate state or local law based upon the earlier analysis and the completed public disclosure, and a confirming certification that Ms. Toennies has not and will not participated in any part of the CDBG CARES Act funding application review and decision-making process. Upon receipt, our office will review the evidence that the conflict of interest has been disclosed with provision of sufficient

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time for the public to learn of the disclosure and that all other matters above have been addressed. At that time, CPD will also determine whether the exception will further the purpose of the Act and the effective and efficient administration of the recipient's program or project as per 24 CFR § 570.611(d)(2)

This Office appreciates the partnership with the City of Rapid City, SD and looks forward to continuing to support the City's efforts to meet the goals of its Consolidated Plan. If there are any questions or there is a request for technical assistance, please do not hesitate to contact Mr. Samuel L. Potter, Community Planning and Development Representative, by phone at 303-672-5166 or by email at [Samuel.L.Potter@hud.gov](mailto:Samuel.L.Potter@hud.gov).

Sincerely,



Katy Burke  
Regional Director

cc: Mr. Ken Young, Director Community Development



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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## Office of the City Attorney

300 Sixth Street

Rapid City, South Dakota 57701-2724

Telephone: 605-394-4140

FAX: 605-394-6633

E-mail: [attorney@rcgov.org](mailto:attorney@rcgov.org)

[www.rcgov.org/attorney/attorneyhomepage.htm](http://www.rcgov.org/attorney/attorneyhomepage.htm)

November 25, 2020

Ms. Katy Burke  
Reginal Director  
Office of Community Planning and Development: Region VIII  
1670 Broadway Street  
Denver, Colorado 80202-4801

**RE: Opinion of Counsel for City of Rapid City, Recipient  
Conflict of Interest Exception Request (Toennies)**

Ladies and Gentlemen:

The City of Rapid City is providing this opinion to you pursuant to 24 CFR § 570.611(d)(1)(ii) and 24 CFR § 570.489(h)(4)(ii) as those regulations apply to the CARES Act grant from the United States Department of Housing and Urban Development (HUD) to the City of Rapid City (the "City"). The City has requested an exception request to authorize consideration of the United Way of the Black Hills ("UWBH") as a qualified applicant, while its Executive Director, Jamie Toennies, is a member of the City's Community Investment Committee (the "Committee").

The Office of the City Attorney is the general counsel for the City of Rapid City, and exists pursuant to SDCL 9-14-23 and Chapter 2.16 of the Rapid City Municipal Code. All attorneys in the City Attorney's Office are licensed to practice law by the State Bar of South Dakota.

### *Factual Background*

Jamie Toennies currently serves as the Executive Director of UWBH, a South Dakota nonprofit corporation. She was appointed to the Committee in September of 2019 to fill a vacancy created by a previous member's resignation. She was reappointed to a full term commencing September 30, 2020, and expiring October 1, 2023.



The Committee was created by ordinance, and its primary purpose is to “make recommendations to the Common Council on the annual Community Development Block Grant sub-grantee selections, and the annual selection of non-profit grantee recipients of the general fund allocation made for that purpose.” *Rapid City Municipal Code (RCMC) Section 2.49.010*. As a member of the Committee, Ms. Toennies is “in a position to participate in a decision-making process or gain information with regard to such activities[.]” 24 CFR § 570.611(b). *Accord* 24 CFR § 570.489(h). She, as an appointed official for the City, is a covered person under 24 CFR § 570.611(c) and 24 CFR § 570.489(g).

To mitigate the conflict, Ms. Toennies disclosed this conflict, and she abstained from all consideration of funding requests of applicants for CARES Act grant funding. In addition, the City’s Department of Community Development provided public notice disclosing the conflict and solicited public comment via publication in two local newspapers, direct email to over 200 individuals, and notice on the City’s website.

#### ***Compliance with State and Local Law***

In making my determination, I have reviewed the following:

1. 24 CFR part 570;
2. SDCL ch. 6-1, “Acts and Records of Local Officers”;
3. SDCL ch. 9-14, “Municipal Officers and Employees”;
4. RCMC 2.04, “Officers and Employees Generally”;
5. RCMC 2.49, “Community Investment Committee”;
6. Resolution 2016-096 of the Rapid City Common Council, A Resolution Adopting a Conflict of Interest Policy for Elected and Appointed Officials of the City of Rapid City;
7. *Hanig v. City of Winner*, 2005 SD 10, 692 N.W.2d 202; and
8. Minutes of the Community Investment Committee from its September 28, 2020 meeting;
9. such other documents, instruments, and records as I have considered relevant for purposes of this opinion.

Based upon such examination, the factual background noted above, and such research and investigation as I deemed necessary, I am of the opinion that

1. Ms. Toennies has a conflict of interest in making application for grant funding on behalf of her employer while sitting on the committee that vets such applications. While Ms. Toennies does not have a direct pecuniary interest, an indirect pecuniary interest or personal interest may be present. *See Hanig*, supra at ¶ 19.

2. The appropriate remedy for such conflict is disclosure of the conflict to the Committee and her recusal as a member of the Committee from all consideration of applications made for CARES Act grant funding. *See* Resolution 2016-096; SDCL 6-1-17.
3. Such disclosure and recusal is legally sufficient, under the laws of the State of South Dakota and the City of Rapid City, to address the conflict of interest of a member of the Committee. *Id.*
4. Consideration of the application by United Way of the Black Hills by the Committee, a recommendation by the Committee of funding, and eventual approval by the City's Common Council of grant funding does not violate South Dakota or Rapid City law, as disclosure and recusal were accomplished. *Id.*
5. Ms. Toennies is not in violation South Dakota or Rapid City law by remaining on the Committee to fulfill the duties of a committee member outside of the application process for CARES Act grant funding.

As to matters of law, we limit our opinion to the laws of the City of Rapid City, the State of South Dakota, and the United States of America, and our opinions are limited to the facts and laws in existence on the date of this opinion. This opinion is delivered to you in connection with the request for exception referenced above. It may not be utilized or quoted by you for any other purpose, nor may it be relied upon by any other person or entity other than your successors or assigns without our express written consent. Please feel free to contact the undersigned if you have any questions related to the content of this opinion.

Very truly yours,



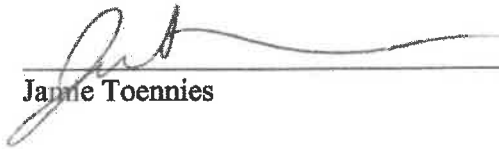
Wade Nyberg  
Deputy City Attorney

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

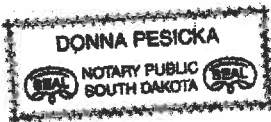
CERTIFICATION

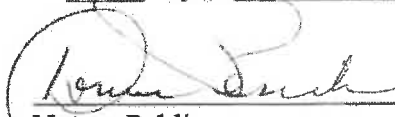
I, Jamie Toennies, Executive Director of United Way of the Black Hills, duly sworn upon my oath or affirmation, hereby certify that I did not and will not participate in any funding application review and decision-making process related to Rapid City's CDBG CARES Act (CDBG-CV) funding application which had a posted deadline of September 18, 2020.

Dated this 3<sup>rd</sup> day of December, 2020.

  
\_\_\_\_\_  
Jamie Toennies

Subscribed and sworn to before me this 3<sup>rd</sup> day of December, 2020.

(seal) 

  
\_\_\_\_\_  
Notary Public  
My Commission Expires 10/23/24

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

**CERTIFICATION**

I, Michelle Schuelke, CDBG Program Division Manager for the City of Rapid City, duly sworn upon my oath or affirmation, hereby certify that Jamie Toennies, Executive Director of United Way of the Black Hills and member of the City's Community Investment Committee, did not and will not participate in any funding application review and decision-making process related to Rapid City's CDBG CARES Act (CDBG-CV) funding application which had a posted deadline of September 18, 2020.

Dated this 7<sup>th</sup> day of December, 2020.



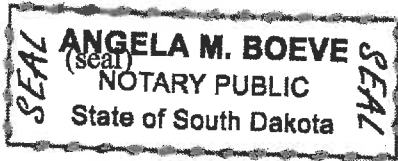
Michelle Schuelke

Subscribed and sworn to before me this 7 day of December, 2020.



Notary Public

My Commission Expires 01-26-2022





# CITY OF RAPID CITY

## CDBG PROGRAM DIVISION

300 Sixth Street  
Rapid City, SD 57701-5035  
(605) 394-4181

December 24, 2020

Samuel L. Potter  
Senior CPD Representative  
Office of Community Planning and Development: Region VIII  
1670 Broadway Street  
Denver, Colorado 80202-4801

Dear Mr. Potter:

In response to your request dated December 23, 2020, on "how, if applicable, (or why it would not be applicable) the exception would result in the effective and efficient administration of the City's program or project as it relates to the following two factors under 24 CFR § 570.611(d)(2)(vi) and (vii)," please find the following response.

A granted conflict of interest exception for United Way of the Black Hills will result in the efficient and effective administration of a child care assistance program. By utilizing a Subrecipient to carry out a child care assistance program, more child care providers are expected to gain access to the funding and exponentially more low/moderate-income households will benefit should those providers receive funding. By utilizing a Subrecipient with expertise in the child care and early learning field, program information and technical assistance will be delivered more efficiently.

The proposed activity will assist child care providers with low/moderate-income clients with reimbursement of added or increased costs related to the pandemic with the goal of preventing additional child care provider closures. According to the National Association of the Education of Young Children South Dakota's Child Care Provider Survey COVID-19 Impact Study (COVID Study) conducted in April 2020, between 1,800 and 2,300 child care slots were temporarily lost. For those that remained open, 53% were operating at or below half capacity.

Most large center-based programs have the capacity to apply for federal assistance directly and many have dedicated staff to facilitate funding and loan applications. At-home child care facilities do not typically have this capacity. According to the COVID Study, 58% of the respondents were family child care homes and face significant barriers in securing federal COVID funding. The proposed program will be effective in addressing such barriers through outreach and technical assistance.

Neither this program nor utilizing United Way of the Black Hills as a Subrecipient were under consideration until recently. In response to the community's changing needs, United Way of the Black Hill's Board of Directors agreed to amend its model and help both profit and non-profit agencies serving low/moderate-income households. Furthermore, the City did not receive applications from any other potential Subrecipient to carry out this targeted program. United Way of the Black Hills has an established connection with local child care providers, hosts a reading readiness program, and partners through the Early Learners South Dakota program. It is well-positioned in the community to provide guidance and ensure equitable access through established partnerships.

As an additional consideration, CDBG funds will not be utilized for program delivery costs such as salaries or advertisements of the program. United Way of the Black Hills will carry these costs; 100% of the awarded CDBG money, if approved, will go directly to local child care providers.

If the conflict of interest exception request is not granted, the program will not be implemented and it is expected to carry a continued undue burden on small child care providers, an undue burden on low/moderate-income parents in need of child care, and an undue burden on the community and businesses that rely on parents to obtain child care.

I look forward to your response and the continued partnership with HUD in implementing Rapid City's CDBG Program.

Sincerely,



Michelle Schuelke  
CDBG Program Division Manager

cc: Ms. Katy Burke, Regional Director  
Mr. Ken Young, Community Development Director, City of Rapid City



Equal Opportunity Employer and Lender

The City of Rapid City does not discriminate based on disability and provides reasonable accommodations to ensure people with disabilities have equal access to City programs, services, and employment opportunities. To request a reasonable accommodation, please contact Nick Stroot, Section 504 and ADA Coordinator, at (605) 394-4136. To request language assistance to participate in City programs and services, including free oral interpretation or translation of written materials, please call (605) 394-4181. For TDD/TTY, please dial 711.

**From:** [Michelle.Schuelke@rcgov.org](mailto:Michelle.Schuelke@rcgov.org) [mailto:[Michelle.Schuelke@rcgov.org](mailto:Michelle.Schuelke@rcgov.org)]  
**Sent:** Tuesday, December 08, 2020 1:30 PM

**To:**

**CC:**

**Subject:** Toennies Conflict of Interest Exception Request-Requested Items

Dear Ms. Burke,

In response to HUD's letter dated September 30, 2020, Subject "Toennies Conflict of Interest Exception Request," please find the additional items as requested:

- evidence of public disclosure through attachments 'RCJ 20-Day Public Comment CDBG-CV Funding and Conflict Interest' and 'NSN 20-Day Public Comment CDBG-CV Funding and Conflict Interest';
- the City's attorney's opinion through attachment 'Attorney Conflict of Interest Opinion 11-25-2020'; and
- confirming certifications through attachment 'Schuelke Toennies Certification 12-07-2020.'

Sincerely,

Michelle Schuelke  
CDBG Program Division Manager  
(605) 394-4181  
300 6<sup>th</sup> St. (Mailing)  
333 6<sup>th</sup> St. (Physical)  
Rapid City, SD 57701

**cc:** Samuel Potter, CPD Representative  
Ken Young, Community Development Director

In support of the CDC Social Distancing recommendations, access to our offices has been restricted to employees only. Please contact us via phone or email so that we can continue to provide you with necessary services.

The information contained in this message may be privileged and confidential and protected from disclosure. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

Equal Opportunity Employer and Lender

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# U. S. Department of Housing and Urban Development



Community Planning and Development

Region VIII, Denver  
1670 Broadway Street  
Denver, Colorado 80202-4801

Phone: 303-672-5414  
Fax: 303-672-5028  
Web: www.hud.gov

December 28, 2020

Ms. Michelle Schuelke  
CDBG Program Division  
City of Rapid City  
300 6th Street  
Rapid City, SD 57701-5035

**SUBJECT: Toennies Conflict of Interest Exception Request**

Dear Ms. Schuelke:

This letter is in response to the City of Rapid City's December 8, 2020 request to the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD) for an exception to the Community Development Block Grant (CDBG) Conflict of Interest provisions of 24 CFR § 570.611(b). HUD Region VIII's CPD and Office of Counsel has reviewed the City of Rapid City's request and CPD has included its conclusions below.

- A. Ms. Toennies is an appointed member to the City of Rapid City's Community Investment Committee and the Executive Director of the United Way of the Black Hills, a potential grant recipient of the City through the Community Investment Committee. These two positions held by Ms. Toennies does constitute a Conflict of Interest as per 24 CFR § 570.611(b) and (c).
- B. On September 3, 2020, the City of Rapid City requested in writing an exception to the provisions of the CDBG Conflict of Interest provisions of 24 CFR § 570.611(b). The request included a letter from the City identifying to HUD the nature of the conflict as per the first part of 24 CFR § 570.611(d)(1)(i) however, it only described how the public disclosure would happen and not that it had been undertaken. Additionally, the request included an opinion from the recipient's attorney stating that if the Rapid City's Community Investment Committee member recused herself from decisions related to the non-profit in which she is the Executive Director and the public disclosures planned for in the two letters were carried out, neither the committee member nor the United Way of the Black Hills would be in violation of South Dakota or Rapid City law as required by 24 CFR § 570.611(d)(1)(ii).
- C. On September 30, 2020, CPD determined in a letter to the City of Rapid City that, at that time, an exception to 24 CFR § 570.611 could not be issued and it identified additional actions that the City would need to undertake prior to submitting a request an exception to the CDBG Conflict of Interest provisions.
- D. On December 8, 2020, the City resubmitted its request in writing for an exception to 24 CFR § 570.611. The request included evidence of its public disclosure of the Conflict of Interest in three different forums on October 7 and October 15, 2020; an Opinion of Counsel from City Attorney Wade Nyberg, dated November 25, 2020, that the requested exception does not violate state and local law requirements based on the public disclosure



undertaken; and a notarized certification from Ms. Toennies that she did not and will not participate in any funding application review or decision-making process related to Rapid City's CDBG-CV funding opportunity. Additionally, the City provided a copy of the one comment that was yielded from the public disclosure process that was in support of the expenditures as submitted by the committee.

- E. On December 24, 2020, the City provided additional information as requested regarding factors to be considered for the exception.

In addition to ensuring that the grantee has met the threshold requirements under 24 CFR § 570.611, CPD must make a determination as to whether to grant an exception to the Conflict of Interest based on the conclusion that such an exception will serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended, and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the factors, as applicable, identified under 24 CFR § 570.611(d)(2)(i)-(vii).

Based upon the fact that the City of Rapid City followed its established Citizen Participation Plan and overall procedures for eliciting applications for use of the CDBG funds provided under the CARES Act and has provided the information as noted above, CPD has determined that the City has fulfilled the requirements under 24 CFR § 570.611. CPD has also determined that providing the exception will further the purposes of Title I of the Housing and Community Development Act of 1974, as amended. CPD will, as per 24 CFR § 570.611(d), grant the City of Rapid City an exception to this particular Conflict of Interest.

CPD appreciates the partnership with the City of Rapid City, SD and looks forward to continuing to support the City's efforts to meet the goals of its Consolidated Plan. If there are any questions or there is a request for technical assistance, please do not hesitate to contact Mr. Samuel L. Potter, Senior Community Planning and Development Representative, by phone at 303-672-5166 or by email at [Samuel.L.Potter@hud.gov](mailto:Samuel.L.Potter@hud.gov).

Sincerely,



Katy Burke  
Regional Director

cc: Mr. Ken Young, Director Community Development