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Alliance

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF RAPID CITY
AND THE MUSEUM ALLIANCE OF RAPID CITY, INC. RELATING TO
CORPORATE STRUCTURE AND OPERATIONS**

This Memorandum of Understanding ("MOU") is made and entered into by and between the CITY OF RAPID CITY, a municipal corporation, hereinafter referred to as the "City," of 300 Sixth Street, Rapid City, SD 57701, and MUSEUM ALLIANCE OF RAPID CITY, INC., a South Dakota non-profit corporation, hereinafter referred to as the "MARC," of 222 New York Street, Rapid City, SD 57701.

WHEREAS, the parties have previously entered into that certain Lease and Management Agreement dated May 21, 2012, hereinafter called the "Agreement"; and

WHEREAS, the Mayor, with City Council approval, currently appoints all directors to MARC's Board of Directors; and

WHEREAS, the City and MARC desire to reduce the number of City appointments to the Board; and

WHEREAS, the City and MARC desire to make other changes to MARC's Articles of Incorporation and Bylaws to promote openness and transparency of the MARC Board of Directors; and

WHEREAS, the changes included in this MOU will be mutually beneficial for the City and MARC; and

WHEREAS, the parties desire to enter into this MOU to reduce their mutual agreements to writing.

NOW THEREFORE, for and in consideration of the mutual promises and agreements contained herein, the parties hereby agree as follows:

1. Recitals. The recitals set forth above constitute an integral part of this MOU and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.
2. Purpose. The purpose of this MOU is to set forth the manner of appointment of directors, size and operation of the MARC Board of Directors and to set forth the obligations of each party.

3. MARC Board of Directors. MARC agrees to make changes to its governing documents to accomplish the following:

- a. The MARC Board of Directors shall consist of not more than 15 and not less than 7 directors.
- b. MARC shall have the discretion to determine the number of directors within the above-cited limit, but it shall not be able to reduce the number of directors appointed by the City.
- c. Five directors shall be appointed by the City.
 - i. Four directors of the Board shall be appointed by the Mayor with Council confirmation.
 - ii. In addition, one Alderman shall be appointed by the City as a voting director.
- d. The remaining directors shall be chosen pursuant to a policy or bylaw adopted by MARC.
- e. There shall be no requirement that any director be a resident of the City of Rapid City.
- f. All directors shall serve a three-year term, with the exception of the Alderman appointed by the City, who shall serve a one-year term.

MARC may provide recommendations to the Mayor and Council regarding the appointment of directors by the City. The Mayor and Council agree to consider the recommendations, but shall not be bound by any such recommendation.

4. Meetings of the Board of Directors. Meetings of the MARC Board of Directors shall be noticed to the public. Meetings shall be open to the public except for executive sessions. Nothing in this MOU shall operate to limit the Board's ability to limit public participation in its meetings.

5. Minutes of Board Meetings. Minutes of all Board meetings shall be kept and made available to the City for posting on its website.

6. Amendments. This MOU may only be amended by a written document duly executed by all parties.

7. Entire Agreement. This MOU constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

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


9. 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 MOU, which shall remain in full force and effect.

10. Headings. The headings and numbering of the different paragraphs of this MOU are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

11. Construction and Venue. This MOU shall be interpreted under the laws of the State of South Dakota. Any litigation under this MOU shall be resolved in the Circuit Court of Pennington County, South Dakota.


Dated this 19 day of November, 2012.

CITY OF RAPID CITY



Mayor

ATTEST



Finance Officer

(SEAL)

MUSEUM ALLIANCE OF RAPID CITY, INC.

By Donna M. Fisher
Its President, The Journey Museum Board