MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF RAPID CITY AND PENNINGTON COUNTY REGARDING
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) AND
STORM WATER MANAGEMENT PLAN IMPLEMENTATION

This Memorandum of Understanding (MOU) 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, under the federal Clean Water Act the United States Environmental Protection Agency established regulations setting forth National Pollutant Discharge Elimination System (NPDES) permit application requirements for municipal separate storm sewer systems (MS4); and

WHEREAS, the United States Environmental Protection Agency promulgated the Storm Water Phase II Final Rule requiring MS4 operators to implement a Storm Water Management Program designed to reduce the discharge of pollutants from their MS4 to protect water quality, and satisfy water quality requirements of the Clean Water Act; and

WHEREAS, the County submitted a Notice of Intent as required by the Phase II Storm Water Regulations and was issued a General Permit from the South Dakota Department of Environment and Natural Resources (SD DENR); and

WHEREAS, the County’s NPDES Permitted MS4 is located within the City’s plating buffer and one-mile onsite wastewater treatment system jurisdictions; and

WHEREAS, the City and County seek to comply with all provisions of state and federal law and the NPDES permit by working cooperatively to ensure compliance.

NOW, THEREFORE, the City and County mutually agree that the responsibilities of each party in implementing the County’s Storm Water Management Program shall be as follows:

I. DUTIES OF PENNINGTON COUNTY:

The County shall:

A. Develop and implement a Storm Water Management Program.

B. Develop and implement a Storm Water Quality Manual and update the Manual as necessary.
C. Develop and implement a Storm Water Management Plan and update the Plan annually.

D. Annually compile information and submit an Annual MS4 Report to SD DENR.

E. Include storm water controls and mitigation measures as Conditions of Approval of any applicable Permits. The County shall inspect construction and development projects within its jurisdiction in accordance with the Storm Water Management Plan and Storm Water Quality Manual to determine compliance with storm water regulations.

F. Require a Construction Permit (or equivalent) for land disturbances greater than 10,000 square feet.

G. Operate and maintain storm water infrastructure within its jurisdiction, which does not include infrastructure on private property or constructed as part of property development within the City’s platting buffer (i.e. detention/retention ponds).

H. Enforce its Storm Water Management Program and inspect any modifications to storm water infrastructure and drainage as needed to control storm water discharge within its jurisdiction.

I. Require Onsite Wastewater Construction Permits and Operating Permits for onsite wastewater treatment systems located in the MS4 outside of the City’s one-mile onsite wastewater treatment system jurisdiction.

J. Incorporate storm water pollution prevention practices and storm water compliance information into education materials for its commercial and industrial property owners.

K. Coordinate enforcement with the City, as described in Section III of this MOU.

II. DUTIES OF THE CITY OF RAPID CITY:

The City shall:

A. Require that the City Planning Commission review and make recommendations to the City Council concerning subdivision plans. This includes subdivision plans located in the platting buffer within the County’s NPDES Permitted MS4.

B. Perform inspections to ensure compliance with the requirements set forth in the Stipulations of Approval of subdivision plans in the platting buffer.

C. Require an Erosion and Sediment Control Plan, or equivalent (i.e. County Construction Permit) for land disturbances associated with subdivision plans in the platting buffer.
D. Require storm water infrastructure for development of property in the platting buffer.

E. Include storm water controls and mitigation measures as Stipulations of Approval of subdivision plans for water, sewer, road, etc. improvements in the platting buffer.

F. Require bonding for storm water infrastructure for development of property in the platting buffer.

G. Require Permits for onsite wastewater treatment systems located in the MS4 in the City’s one-mile onsite wastewater treatment system jurisdiction.

H. Require Air Quality Permits in the designated Air Quality Zone for land disturbances of one acre or more.

I. Coordinate enforcement with the County, as described in Section III of this MOU.

III. COORDINATION OF IMPLEMENTATION AND ENFORCEMENT DUTIES RELATED TO STORM WATER IN THE COUNTY’S NPDES PERMITTED MS4

The City and County desire that the above duties, as they relate to implementation and enforcement of overlapping storm water rules, regulations, and guidelines, shall be performed in a cooperative and efficient manner, with minimal redundancy and duplication of effort. Therefore, the City and County hereby agree:

A. The County shall inform the City of basic storm water requirements and guidelines in the NPDES permitted MS4.

B. The City shall identify applicable standard controls, site-specific controls, and storm water controls; the City shall also incorporate recommended control measures into its recommendation and staff report to the decision-making authority.

C. The County shall enforce erosion and sediment control requirements within the platting buffer and NPDES permitted MS4. A Construction Permit is required for any land disturbance greater than or equal to 10,000 square feet in Pennington County.

D. The City shall enforce implementation and inspection of storm water infrastructure as part of property development in the platting buffer.

E. The City shall enforce Air Quality requirements in the Air Quality Zone.
IV. LIMITATIONS

This MOU is solely for the purpose of coordinating efforts in meeting the County’s responsibilities under the NPDES MS4 Permit. This MOU does not create any additional responsibilities, nor does it create any contractual obligation between the parties. Further, it shall not be deemed to inure to the benefit of any person or entity not a party to this MOU and does not confer any rights to such non-party, whether such right be claimed to arise from any action or inaction of any party to this agreement.

V. LIABILITY

Each party shall be responsible for the acts or omissions of its employees. Participating parties and their employees shall not be considered as the agents of any other participating party. Nothing herein waives or limits sovereign immunity.

VI. DURATION OF THE MOU

This MOU is effective upon execution by the duly authorized parties and shall continue until superseded, or as long as the County is required to comply with the NPDES MS4 Permit and the City exercises platting jurisdiction under South Dakota Codified Law (SDCL) §11-6-26 and one-mile onsite wastewater treatment system jurisdiction under SDCL §9-29-1.

VII. AMENDMENTS TO THE MOU

This MOU may be amended by consent of both parties. Each party’s duties as defined in this MOU may be amended due to revisions of the Storm Water Management Plan, Storm Water Quality Manual, or changes in Ordinance or Municipal Code. No amendment to this MOU shall be effective unless it is in writing and signed by the duly authorized representatives of the parties.

VIII. AUTHORIZED SIGNATORIES

The Chairperson of the Pennington County Board of Commissioners, and his or her duly authorized representative, shall be authorized to submit Annual Reports required by the NPDES permit to SD DENR.

IX. EXECUTION OF THE MEMORANDUM OF UNDERSTANDING

This MOU may be executed in counterparts and the signed counterparts shall constitute a single instrument.
X. SEVERABILITY

If any provision of this MOU 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.

XI. SIGNATURES

**PENNINGTON COUNTY**
Lloyd LaCroix  
Chairperson, Pennington County Board of Commissioners

____________________________  __________________
Signature                   Date

**CITY OF RAPID CITY**
Steve Allender  
Mayor, City of Rapid City

____________________________  __________________
Signature                   Date

Attest:  
Pauline Sumption  
Finance Officer

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Signature