

PERFORMANCE CONTRACT

BETWEEN

FALL RIVER COUNTY

AND

BLACK HILLS COUNCIL OF LOCAL GOVERNMENTS

FOR THE

FALL RIVER COUNTY HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS PLAN UPDATE

PARTIES:

The parties to this agreement are the BLACK HILLS COUNCIL OF LOCAL GOVERNMENTS, a public agency created under the *Joint Powers Act of the State of South Dakota*, hereinafter called the COUNCIL, and FALL RIVER COUNTY, hereinafter called the COUNTY.

PURPOSE:

The COUNTY is proposing to update the *Fall River County Hazardous Materials Emergency Preparedness Plan*, hereinafter called the PLAN. The COUNTY, after full consideration of all the various State and Federal requirements related to local hazardous materials planning, has concluded that outside technical assistance is necessary to complete the PLAN update.

CONSULTANT EMPLOYMENT:

The COUNTY has determined that the COUNCIL has the necessary staff expertise and resources to satisfactorily update the PLAN. Due to the level of administrative and technical effort required to complete the PLAN update, the technical support provided by the COUNCIL is outside the customary level of service associated with annual membership dues. Therefore, the COUNTY hereby engages the contractual services of the COUNCIL to perform all administrative and technical tasks related to this project. The COUNCIL agrees, pursuant to orders, advice and direction of the COUNTY, to fulfill its responsibilities as assigned by this contract.

TERMS OF CONTRACT:

This agreement shall commence upon its execution by both parties and shall terminate upon completion of the PLAN or on September 30, 2016, whichever comes first. In the event of termination, the COUNCIL shall be compensated pro rata for the percentage of Responsibilities performed prior to the date of termination.

RESPONSIBILITIES:

The parties to this contract agree to the following responsibilities.

The COUNTY agrees to:

- Provide compensation to the COUNCIL in accordance with the terms of this contract;
- Provide information and guidance to the COUNCIL staff during the contract period;
- Fully consider and take appropriate actions recommended by COUNCIL staff regarding specific administrative procedures;
- Assume responsibility for all advertising and legal publications related to public meetings, public review, and adoption of the PLAN;
- Assist in coordinating space for public meetings related to the PLAN; and,
- Establish a suitable local site accessible to the public for review of the PLAN.

The COUNCIL agrees to:

- Review the existing Fall River County Hazmat Plan and current State and Federal guidance documents in order to develop an outline of the proposed PLAN addressing document structure and content. The outline will be approved by the Emergency Management Director prior to work beginning on the PLAN;
- Contact agencies and private enterprises within the COUNTY to provide information necessary for the PLAN update;
- Map all Tier II Facilities within the COUNTY as well as evacuation routes relative to each facility. The County will be provided with paper maps of the facilities as well as shapefiles; and,

- Write the PLAN utilizing the model approved by the South Dakota Office of Emergency Management. The COUNTY will be provided with an electronic copy as well as two (2) hard copies of the PLAN.

COMPENSATION:

The COUNTY hereby agrees to provide compensation to the COUNCIL in the amount of \$5,000 for services rendered in the development of the PLAN as outlined in this contract. The compensation shall be paid through the Hazardous Materials Emergency Preparedness Grant Award received by the COUNTY in January, 2016.

The COUNCIL shall submit to the COUNTY an invoice for services rendered. The COUNTY agrees to pay the COUNCIL within 30 days of receipt of billing. Any balance not paid within 30 days of the billing date shall accrue interest from the billing date at the rate of nine percent (9%) per annum.

HOLD HARMLESS:

To the fullest extent permitted by law, each party shall indemnify and hold harmless the other party, including each other's agents, employees and volunteers from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the party's respective Responsibilities as set forth herein, including loss of use resulting therefrom and which is caused in whole or in part by any negligent act or omission of the party, or any subcontractor of such party, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

ENTIRE AGREEMENT; NO THIRD PARTY BENEFICIARIES:

This Contract is the entire agreement between the parties concerning its subject matter, supersedes all prior agreements and understandings, whether or not written, and is not intended to confer upon any person other than the parties any rights or remedies hereunder.

MODIFICATION OR CANCELLATION OF CONTRACT:

This contract constitutes the entire agreement between all parties and supersedes all previous contract(s). No amendment or modification changing its scope or terms shall have any force or effect unless it is in writing and signed by both parties. This contract may be canceled by either party with 30 days written notice, delivered by registered mail. In the event of cancellation, the COUNCIL shall be compensated on a pro rata basis for the percentage of Responsibilities performed prior to the date of cancellation. All notices under this contract shall be addresses as follows:

To COUNCIL:

Black Hills Council of Local Governments
Attn: Blaise Emerson
730 East Watertown Street, Suite 102
Rapid City, SD 57701

To COUNTY:

Fall River County Emergency Management
Attn: Frank Maynard
906 N. River Street
Hot Springs, SD 57747

This agreement shall be binding upon the parties hereto, their successors and assigns.

Executed this ____ day of _____, 2016.

FALL RIVER COUNTY

**BLACK HILLS COUNCIL
OF LOCAL GOVERNMENTS**

Michael P. Ortner, Commission Chairperson

Blaise Emerson, Executive Director

~~#16~~ 1/19/16 minutes

ALL PROVISIONAL BOARDS WILL BE SET AT A \$20.00 FLAT FEE, and

BE IT FURTHER RESOLVED, that the Fall River County Commissioners set the mileage rate at \$.42 per mile for the transporting of ballots and ballot boxes by the precinct superintendent.

Dated this 19th day of January, 2016.

/s/ Michael P. Ortner
Michael P. Ortner, Chairman
Fall River County Commission

ATTEST:

/s/ Sue Ganje
Sue Ganje, County Auditor
Fall River County

Dan Cullen, Veteran Service Officer, gave his quarterly update to the Commissioners.

Lyle Jensen, Building Supervisor presented quotes for rust repair as follows: Auto Body of Generations, \$1,404; Hills Edge Auto Sales, \$1,882.48; Marty's Tire and Auto Body, \$2,004.04 and Glass Pro + for \$1,778.68. Motion by Russell, seconded by Allen to accept the low bid from Auto Body of Generations for \$1,404.00 to repair the three areas on the 2004 Chevy Pickup Silverado K1500.

Jensen presented quotes for a covered shed as follows: High Country Erectors, \$19,604, delivered and labor; Menards \$7,484.22, excluding labor, and Dreams Carports & Buildings, delivered and labor, \$11,990. No action was taken on the quotes. Jensen also discussed the proposed 385 Hwy plan and presented maps to the Commissioners. Jensen's concern is that the new plan does not allow for handicapped parking at the Courthouse.

Frank Maynard, Emergency Management requested a new computer purchase. Motion by Allen, seconded by Abbott, to approve a replacement computer at an estimated cost for \$600-\$700.

Motion by Allen, seconded by Russell to approve Maynard's attendance at the SDEMA conference to be held in Aberdeen, SD from September 12-15, 2016.

Motion by Abbott, seconded by Russell, to approve the Combined Election Agreement to include candidates from the Hot Springs City, Town of Oelrichs and the Hot Springs and Oelrichs Schools on the June 7, 2016 Primary ballot.

Motion by Russell, seconded by Abbott to approve the pipeline easement with Gary and Sharon Romey on Scenic Road running from the NE ¼ of Sec 33 in Twp 8, Rng 6 to the NE ¼ of Sec 33 in Twp 8, Rng 6.

Motion by Russell, seconded by Allen to approve the following documents for Project

Filed COPY

Filed for Record - Fall River County

Filed On 2/11/2016 10:45 AM
Document# R 053804 Type: EASE

PREPARED BY:

Name: GARY A. Romey
Address: 27724 Scenic Rd
Hot Springs S. Dak 57747
Telephone #: 605-745-6768
890-3111

BOOK 185M of MISCELLANEOUS
PAGE 276 through 280 #ofPages
Melody Engebretson, Register of Deeds
Fee \$ 30.00 CK

Key# 70624

Return To:
GARY A & SHARON L ROMEY
27724 SCENIC ROAD
HOT SPRINGS SD 57747

053804

**FALL RIVER COUNTY
PIPELINE EASEMENT**

This Pipeline Easement is made and entered into this 30 day of December,
20 15, by and between Fall River County, a political subdivision of the State of South
Dakota, Grantor, hereinafter referred to as "County" acting by and through its Board of
County Commissioners and Gary A. Romey and Sharon L Romey,
Landowner(s), hereinafter referred to as "Grantee(s)", whose Post Office address is (are):
27724 Scenic Rd and _____
Hot Springs S. Dak 57747

I.

County, as Grantor, hereby grants and conveys to the above Landowner(s), as
Grantee(s), a permanent, continuing, (15) fifteen foot wide easement for a pipeline,
including replacement, maintenance, and repair of the pipeline and its associated values,
meter pits and other components as need be, upon the terms and conditions set forth
hereinafter, over, upon, under and across Fall River County Highway # Scenic Rd

Easement to be in that area adjacent to the NE Quarter of Section 33 in
Township 7, Range 6, and the NE Quarter of Section 33 in
Township 7, Range 6, of the Black Hills Meridian, Fall River County, South
Dakota.

And

The pipeline to run from the NE Quarter of Section 33 in Township 7,
Range 6, to the NE Quarter of Section 33 in Township 7,
Range 6, of the Black Hills Meridian, Fall River County, South Dakota.

General location to be marked on attached Fall River County Map. (line through road
affected in the general location).

II.

That the terms and conditions upon which the above identified easement is granted and
which is subject to and based upon, and upon which it is given, are as follows:

- a. That the Grantee(s) shall for the purpose of inspection, notify Fall River County Water
Users District at (605)745-7648 or Fall River County Highway Dept. at (605)745-3137 in