

SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
PENNINGTON COUNTY, SOUTH DAKOTA
UNDER THE AMERICANS WITH DISABILITIES ACT
DJ # 204-69-49

I. BACKGROUND

A. SCOPE OF THE INVESTIGATION

The United States initiated this matter as a compliance review of Pennington County, South Dakota (Pennington County), under title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12134, and the United States Department of Justice's implementing regulation, 28 C.F.R. Part 35.

The Disability Rights Section of the Department of Justice's Civil Rights Division conducted this review of Pennington County's compliance with the following title II requirements:

- to conduct a self-evaluation of its services, policies, and practices by July 26, 1992, and make modifications necessary to comply with the Department of Justice's title II regulation, 28 C.F.R. § 35.105;
- to notify applicants, participants, beneficiaries, and other interested people of their rights and Pennington County's obligations under title II and the Department of Justice's regulation, 28 C.F.R. § 35.106;
- to designate a responsible employee to coordinate its efforts to comply with and carry out Pennington County's ADA responsibilities, 28 C.F.R. § 35.107(a);
- to establish a grievance procedure for resolving complaints of violations of title II, 28 C.F.R. § 35.107(b);
- to operate each program, service, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities, 28 C.F.R. §§ 35.149-.150, by:
- delivering services, programs, or activities in alternate ways, including, for example, redesign of equipment, reassignment of services, assignment of aides, home visits, or other methods of compliance and/or;

- making physical changes to buildings (required to have been made by January 26, 1995), in accordance with the Department of Justice's title II regulation, 28 C.F.R. §§ 35.150-.151, and the 1991 ADA Standards for Accessible Design (1991 ADA Standards), 28 C.F.R. Part 36, App. D (2011) or the Uniform Federal Accessibility Standards (UFAS), 41 C.F.R. § 101-19.6, App. A, and the 2010 ADA Standards for Accessible Design (2010 Standards), 28 C.F.R. § 35.104;¹
- to ensure that facilities for which construction or alteration was begun after January 26, 1992, are readily accessible to and usable by people with disabilities, in accordance with 1) the Department of Justice's title II regulation and 2) the 1991 ADA Standards or UFAS, or the 2010 ADA Standards, as applicable, 28 C.F.R. § 35.151;
- to ensure that communications with people with disabilities, including applicants, participants, and members of the public, are as effective as communications with others, including furnishing auxiliary aids and services when necessary, 28 C.F.R. § 35.160;
- to provide direct access via TTY (text telephone) or computer-to-telephone emergency services, including 911 services, 28 C.F.R. § 35.162;
- to provide information for interested people with disabilities concerning the existence and location of Pennington County's accessible services, activities, and facilities, 28 C.F.R. § 35.163(a); and
- to provide signage at all inaccessible entrances to any facility, directing users to an accessible entrance or to information about accessible facilities, 28 C.F.R. § 35.163(b).

The United States reviewed compliance with the ADA's new construction and alterations requirements at the following facilities constructed or altered after January 26, 1992: New Administration/Evidence Building.

The program access review covered those of Pennington County's programs, services, and activities that operate in the following facilities that were constructed prior to January 26, 1992: Pennington County Courthouse Complex, Pennington County Jail, Jail Annex, Public Safety Building, Public Health Building, Highway Services Building, Juvenile Services Center, Walter Taylor Building, and Pennington County Fairgrounds.

The Department conducted a program access review of the following polling places: Walter Taylor Building and Pennington County Fairgrounds. This review was limited to the areas of the facilities used by the voting public: parking, the route from the parking area to the area used for voting, and the area used for voting.

¹ Section 35.104 defines the 2010 ADA Standards as the requirements set forth in appendices B and D to 36 C.F.R. part 1191 and the requirements contained in subpart D of 28 C.F.R. part 36.

The United States reviewed Pennington County's emergency management and disaster prevention policies and Pennington County's sidewalk maintenance policies to evaluate whether people with disabilities have an equal opportunity to utilize these programs.

The United States reviewed Pennington County's Sheriff's Department's policies and procedures regarding providing effective communication to people who are deaf or hard of hearing.

B. JURISDICTION

1. The ADA applies to Pennington County because it is a "public entity" as defined by title II, 42 U.S.C. § 12131(1).
2. The United States is authorized under 28 C.F.R. Part 35, Subpart F, to determine the compliance of Pennington County with title II of the ADA and the Department of Justice's title II implementing regulation, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized, under 42 U.S.C. § 12133, to bring a civil action enforcing title II of the ADA.
3. The parties to this Agreement are the United States of America and Pennington County, South Dakota.
4. Based on its review of Pennington County's programs, services, activities, and facilities, the United States has concluded that qualified individuals with disabilities are, by reason of such disabilities, excluded from participation in or are denied the benefits of many of Pennington County's programs, services, or activities or are subjected to discrimination in violation of the ADA. The agreed upon remedial actions, below, are intended to remedy those violations.
5. In order to avoid the burdens and expenses of a further investigation and possible litigation, the parties enter into this Agreement.
6. In consideration of, and consistent with, the terms of this Agreement, the Attorney General agrees to refrain from filing a civil suit in this matter regarding paragraphs 8 through 52, except as provided in the section entitled "Implementation and Enforcement."

II. ACTIONS TAKEN BY PENNINGTON COUNTY

7. Pennington County represents that it has taken actions to comply with the ADA and the Rehabilitation Act, including but not limited to the following:
 - a. Pennington County appointed an ADA coordinator who is responsible for handling Pennington County's ADA issues.
 - b. Pennington County designated a web accessibility coordinator responsible for

coordinating Pennington County's compliance with the requirements of Section I of this Agreement.

III. REMEDIAL ACTION

A. NOTIFICATION

8. Within two (2) months of the effective date of this Agreement, Pennington County will adopt the attached Notice under the ADA, Attachment A (Notice); distribute it to all its agency heads; publish the Notice in a local newspaper of general circulation serving Pennington County; post the Notice on its Internet Home Page; and post the Notice in conspicuous locations in its public buildings. It will refresh each posted Notice, and update the contact information contained on each Notice, as necessary, during the term of this Agreement. Pennington County will provide the Notice to any person upon request.
9. Within three (3) months of the effective date of this Agreement, and annually thereafter, Pennington County will implement and send the United States its written procedures to inform interested people with disabilities of the existence and location of Pennington County's accessible programs, services, and activities.

B. INDEPENDENT LICENSED ARCHITECT

10. Within three (3) months of the effective date of this Agreement, Pennington County will retain an Independent Licensed Architect (ILA), approved by the United States, who is knowledgeable about the architectural accessibility requirements of the ADA and the Rehabilitation Act. The ILA must act independently to certify whether any alterations, additions, or modifications made by Pennington County during the term of this Agreement comply with the applicable standard pursuant to 28 C.F.R. § 35.151(c) and the Appendix to 28 C.F.R. § 35.151(c). Pennington County will bear all costs and expenses of retaining and utilizing the ILA, including the costs and expenses of any consultants and staff. Pennington County will compensate this ILA without regard to the outcome.
11. In issuing certifications pursuant to this Agreement, the ILA will impartially prepare reports with photographs identifying that the violation has been remediated and will use the certification form at Attachment O. The ILA will be considered a neutral inspector for purposes of issuing certifications of compliance and will be reasonably available to the United States to discuss findings in the reports, photographs, and certifications. The United States may also, in its discretion, provide technical assistance to the ILA throughout the term of this Agreement. Upon request by the United States, Pennington County will provide prior notice to the United States of inspections by the ILA to allow representatives of the United States to be present.
12. Pennington County will submit ILA certifications along with its reporting requirements as set forth in this Agreement.

C. GRIEVANCE PROCEDURE

13. Within three (3) months of the effective date of this Agreement, Pennington County will adopt the attached ADA Grievance Procedure, Attachment B, distribute it to all of its agencies, and post copies of it in conspicuous locations in each of its public buildings. It will refresh each posted copy, and update the contact information contained on it, as necessary, for the term of the Agreement. Pennington County will provide copies to any person upon request.

D. GENERAL EFFECTIVE COMMUNICATION PROVISIONS

14. Within three (3) months of the effective date of this Agreement, Pennington County will identify sources of qualified sign language and oral interpreters, qualified readers, real-time transcription services, and vendors able to put documents in Braille. Within this time Pennington County will implement and report to the United States its written procedures, with time frames, for fulfilling requests for sign language or oral interpreters, qualified readers, real-time transcription services, and documents in alternate formats, including Braille, large print, cassette tapes, and accessible electronic format (*e.g.*, HTML).
15. Pennington County will ensure that all appropriate employees are trained and practiced in using South Dakota Relay Service to make and receive calls, and report to the United States the details of the trainings and employees trained.

E. LAW ENFORCEMENT AND EFFECTIVE COMMUNICATION

16. Within three (3) months of the effective date of this Agreement, Pennington County will implement Pennington County Sheriff's Department's Policy Statement on Effective Communication with People Who are Deaf or Hard of Hearing, Attachment C, and distribute to all Pennington County Sheriff's Department officers the Guide for Law Enforcement Officers When in Contact with People Who are Deaf or Hard of Hearing, Attachment D.
17. Within three (3) months of the effective date of this Agreement, Pennington County will hire or contract with local qualified oral and sign language interpreters to be available twenty-four hours every day to its Pennington County Sheriff's Department.
18. Within three (3) months of the effective date of this Agreement, Pennington County will equip each sheriff station and each jail and detention facility with a sufficient number of working TTYs and videophones, but no fewer than one (1) of each, to enable people who are deaf, hard of hearing, or who have speech impairments to make telephone calls of the same frequency and with the same availability as those people who do not use TTYs or videophones. Where telephone calls are time-limited, Pennington County will adopt policies permitting a longer period of time for individuals using a TTY, videophone, or relay service due to the slower nature of these communications as compared to voice

communications. If any person who is deaf, hard of hearing, or who has a speech impairment prefers a different method of communication, such as a captioned telephone or computer, Pennington County will make reasonable efforts to provide the communication device requested.

F. EMPLOYMENT

19. Within three (3) months of the effective date of this Agreement, Pennington County will amend its employment policies to comply with the U.S. Equal Employment Opportunity Commission regulations implementing title I of the Americans with Disabilities Act of 1990, codified at 29 C.F.R. Part 1630. The policies will provide at a minimum that Pennington County:
 - a. will not discriminate on the basis of disability in its hiring or employment practices;
 - b. will not ask a job applicant about the existence, nature, or severity of a disability. Pennington County may ask applicants about their ability to perform specific job functions. Pennington County may make medical examinations or inquiries, but only after it makes a conditional offer of employment and only if required of all applicants for the position;
 - c. upon request will make reasonable accommodations for a qualified applicant or employee with a disability unless the accommodation would cause an undue hardship on the operation of Pennington County's business. If an applicant or an employee requests a reasonable accommodation and the individual's disability and need for the accommodation are not readily apparent or known, Pennington County may ask for information necessary to determine whether the person has a disability-related need for the accommodation;
 - d. will confidentially maintain employee medical records separate from personnel files; and
 - e. will in making employment decisions individually assess whether a qualified person with a disability meets selection criteria. To the extent Pennington County's selection criteria disqualify an individual because of disability, then those criteria must be job-related and consistent with business necessity.

G. POLLING PLACES

20. Some Pennington County polling places may be owned or operated by other public entities subject to title II or by public accommodations subject to title III and therefore they must provide program access or remove barriers to accessibility under the ADA. This Agreement does not limit future enforcement action against the owners or operators of these polling places.
21. Before designating any new polling place, Pennington County will survey the polling place using the survey instrument at Attachment F to determine whether it has barriers to access by people with disabilities in the parking, exterior route to the entrance, entrance, interior route to the voting area, or voting area. If Pennington County finds any barriers, Pennington County will not use the polling place until all barriers have been remedied.

22. The United States surveyed some of Pennington County's polling places. Barriers to access at polling places owned by Pennington County and the dates by which Pennington County will remove barriers are listed in Attachments I, and K (2).
23. Within one (1) year of the effective date of this Agreement, the ILA hired by Pennington County will survey all facilities listed in Attachment E to determine whether the listed barriers have been removed. If each listed barrier has not been removed, then, for that polling place, Pennington County will identify within eighteen (18) months of the effective date of this Agreement an alternate fully accessible polling place; and comply with paragraph 21 in doing so. Pennington County will immediately change its polling place to the alternative location. Pennington County will remove barriers at each polling place identified in Attachment E or substitute an alternative accessible polling place before the next election occurring eighteen (18) months or later after the effective date of this Agreement.
24. Within six (6) months of the effective date of this Agreement, using the survey instrument at Attachment F, the ILA hired by Pennington County will survey all polling places not surveyed by the United States to identify barriers to access by people with disabilities in the parking, exterior route to the entrance, entrance, interior route to the voting area, and voting area. For each surveyed polling place, Pennington County will then either (1) remove all barriers to access by people with disabilities and have the ILA confirm this to the United States or (2) identify an alternate polling place with no barriers to access by people with disabilities and comply with paragraph 21 in doing so. Pennington County will then take immediate steps to change each new inaccessible polling place to an alternative accessible location. Pennington County will remove barriers at each polling place the United States did not survey and have the ILA confirm this or substitute an alternative accessible polling place before the next election occurring nine (9) months or later after the effective date of this Agreement.
25. Until all polling places in each precinct or voting district have accessible parking, accessible routes to the accessible entrance, accessible entrances, accessible interior routes to the voting area, and an accessible voting area, prior to each election, Pennington County will identify and widely publicize to the public, people with disabilities, and organizations serving people with disabilities the most accessible polling place(s) in each precinct and voting district.
26. Within three (3) months of the effective date of this Agreement, Pennington County will provide Election Day balloting for voters with disabilities whose assigned polling place has accessibility barriers. The method for providing these opportunities may include implementing temporary remedies to make the polling place accessible on election day, allowing the individual to vote at another nearby accessible polling place, to vote by an absentee ballot that is accepted if postmarked on the day of the election (or picked up by election officials at the home of the voter on the same day as the election), to vote curbside at the inaccessible polling place, or to vote by any other method that affords the same degree of information as is available to others.

27. Within six (6) months of the effective date of this Agreement, the ILA hired by Pennington County will survey its voter registration locations for accessibility using the form at Attachment F. The ILA will report the results of this survey to the United States. If Pennington County identifies barriers to access, then Pennington County will remove the barriers and have the ILA confirm the same to the United States or report to the United States its plan to provide program access that may include allowing people to register to vote through alternative means or at alternative locations verified to be accessible by the ILA. This provision does not modify, alter, or change Pennington County's obligations under the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-5(a), (b).
28. Within three (3) months of the effective date of this Agreement, Pennington County will make all voter registration materials available in alternate formats, including Braille, large print, audio tape, and accessible electronic format (*e.g.*, HTML).
29. Within the month prior to the next election and annually thereafter during the term of this Agreement, Pennington County will train poll workers on the rights of people with disabilities and the practical aspects of assuring those rights. The training will cover, at a minimum, the need to maintain the physical accessibility of polling locations, how to assist people with disabilities, as necessary, and how to operate any non-standard voting equipment, including accessible voting systems, or accessible features of standard equipment. This provision does not modify, alter, or change Pennington County's obligations under the Help America Vote Act, 42 U.S.C. § 15301.

H. SIDEWALKS

30. Within three (3) months of the effective date of this Agreement, Pennington County will implement and report to the ILA and the United States its written process for requesting and receiving input from people with disabilities regarding the accessibility of its sidewalks, including requests to add curb cuts at particular locations.
31. Within three (3) months of the effective date of this Agreement, Pennington County will identify and report to the ILA and the United States: (1) a plan for identifying all streets, roads, and highways that have been constructed or altered since January 26, 1992; and (2) a timetable for providing curb ramps or other sloped areas complying with the applicable architectural standards at all intersections of those streets, roads, and highways that have been constructed or altered since January 26, 1992, that have curbs or other barriers from a street level pedestrian walkway. The plan and timetable must be approved by the United States and will specify completion of all required curb ramps or other sloped areas complying with the applicable architectural standards within three (3) years.
32. Within three (3) years of the effective date of this Agreement, Pennington County will provide curb ramps or other sloped areas complying with the applicable architectural standards as permitted by 28 C.F.R. § 35.151(c) and its Appendix, copied below, at all intersections of the streets, roads, and highways constructed or altered since January 26, 1992, that have curbs or other barriers from a street level pedestrian walkway.

Date of Construction or Alteration	Applicable Standards
Before September 15, 2010	1991 ADA Standards or UFAS
On or after September 15, 2010, and before March 15, 2012	1991 ADA Standards, UFAS, or 2010 ADA Standards
On or after March 15, 2012	2010 ADA Standards

Annually, the ILA will confirm to the United States that Pennington County has provided curb ramps or other sloped areas where required that are in compliance with the applicable architectural standards in accordance with the approved plan and timetable.

33. Immediately upon the effective date of this Agreement, Pennington County will provide curb ramps or other sloped areas complying with the 2010 ADA Standards at any intersection having curbs or other barriers to entry from a street level pedestrian walkway, whenever a street, road, or highway is constructed or altered. Annually, the ILA will confirm to the United States that Pennington County has provided curb ramps or other sloped areas where required that are in compliance with the 2010 ADA Standards.
34. Within three (3) months of the effective date of this Agreement, Pennington County will identify and report to the ILA and the United States: (1) a plan for identifying all street level pedestrian walkways that have been constructed or altered since January 26, 1992; and (2) a timetable for providing curb ramps or other sloped areas complying with the applicable architectural standards at all places where those street level pedestrian walkways constructed or altered since January 26, 1992, intersect with a street, road, or highway. The plan and timetable must be approved by the United States and will specify completion of all required curb ramps or other sloped areas complying with the applicable architectural standards within three (3) years.
35. Within three (3) years of the effective date of this Agreement, Pennington County will provide curb ramps or other sloped areas complying with the applicable architectural standards as permitted by 28 C.F.R. § 35.151(c) and its Appendix, copied below, at all places where a street level pedestrian walkway constructed or altered since January 26, 1992, intersects with a street, road, or highway.

Date of Construction or Alteration	Applicable Standards
Before September 15, 2010	1991 ADA Standards or UFAS
On or after September 15, 2010, and before March 15, 2012	1991 ADA Standards, UFAS, or 2010 ADA Standards
On or after March 15, 2012	2010 ADA Standards

Annually, the ILA will confirm to the United States that Pennington County has provided curb ramps or other sloped areas where required that are in compliance with the applicable architectural standards in accordance with the approved plan and timetable.

36. Immediately upon the effective date of this Agreement, Pennington County will provide curb ramps or other sloped areas complying with the 2010 ADA Standards at all newly constructed or altered pedestrian walkways where they intersect a street, road, or highway. Annually, the ILA will confirm to the United States that Pennington County has provided curb ramps or other sloped areas where required that are in compliance with the 2010 ADA Standards.

I. WEB-BASED SERVICES AND PROGRAMS

37. Within twelve (12) months of the effective date of this agreement, the County will retain an independent consultant, approved by the United States, who is knowledgeable about accessible website development, Title III of the ADA, and WCAG 2.0 to evaluate Pennington County's website and any proposed online services for compliance with the ADA and, at minimum, WCAG 2.0 Level A and Level AA Success Criteria and other Conformance Requirements (WCAG 2.0 AA), and who shall be responsible for the annual website accessibility evaluation. Pennington County will bear all costs and expenses of retaining and utilizing this independent consultant, including the costs and expenses of any staff. Pennington County will compensate this independent consultant without regard to the outcome.
38. Within twelve (12) months of the effective date of this Agreement, and annually thereafter, Pennington County will:
 - a. Adopt, implement, and post online a policy that its web pages will comply with WCAG 2.0 AA, published by the World Wide Web Consortium (W3C), Web Accessibility Initiative (WAI), available at www.w3.org/TR/WCAG;
 - b. Distribute the policy to all employees and contractors who design, develop, maintain, or otherwise have responsibility for its websites, or provide website content, technical support, or customer service;
 - c. Provide training to website content personnel on how to conform all web content and services with, at minimum, WCAG 2.0 AA, Title II of the ADA, and the terms of this Agreement;
39. Within thirty (30) months of the effective date of this Agreement, and annually thereafter, Pennington County will:
 - a. Incorporate provisions ensuring that all of Pennington County's webpage's comply with WCAG 2.0 AA into the performance evaluations of the web accessibility coordinator and all employees and contractors who design, develop, maintain, or otherwise have responsibility for its websites, or provide website content, technical support, or customer service;

- b. Assess all existing web content and online services for conformance with, at minimum, WCAG 2.0 AA, by: (1) performing automated accessibility tests of its website and all online services, using an automated tool approved by the United States, to identify any accessibility barriers; and (2) enlisting individuals with different disabilities, including at a minimum individuals who are blind, deaf, and have physical disabilities (such as those limiting the ability to use a mouse), to test its pages for ease of use and accessibility barriers;
 - c. Provide a notice, prominently and directly linked from its homepage, instructing visitors to its websites on how to request accessible information. The link shall provide several methods to request accessible information, including an accessible form to submit feedback, an email address, and a toll-free phone number (with TTY) to contact personnel knowledgeable about the accessibility of the website; and
 - d. Provide a notice, prominently and directly linked from its homepage, soliciting feedback from visitors to its websites on how to improve website accessibility. The link shall provide several methods to provide feedback, including an accessible form to submit feedback, an email address, and a toll-free phone number (with TTY) to contact personnel knowledgeable about the accessibility of the website.
40. Within thirty (30) months of the effective date of this Agreement, Pennington County will:
- a. Ensure that its websites and all online services, including those websites or online services provided by third parties upon which Pennington County relies to provide services or content, comply with, at minimum, WCAG 2.0 AA; and
 - b. Assess all proposed online services before they are made available to the public for conformance with, at minimum, WCAG 2.0 AA, by: (1) performing automated accessibility tests, using an automated tool approved by the United States, to identify any accessibility barriers; and (2) enlisting individuals with different disabilities, including at a minimum individuals who are blind, deaf, and have physical disabilities (such as those limiting the ability to use a mouse), to test its pages for ease of use and accessibility barriers.

**J. NEW CONSTRUCTION,
AND PHYSICAL CHANGES TO FACILITIES**

- 41. Any construction or alterations to Pennington County buildings and facilities by it or on its behalf will fully comply with the requirements of 28 C.F.R. § 35.151, including applicable architectural standards.
- 42. Any part of a Pennington County facility that does not comply with the 2010 ADA Standards (or the 1991 ADA Standards, as applicable), including those listed in Attachments I, J, K(1), and K(2) prevent people with disabilities from fully and equally enjoying Pennington County's services, programs, or activities and constitute discrimination on the basis of disability within the meaning of 42 U.S.C. § 12132 and 28 C.F.R. §§ 35.149 and 35.150.

43. All architectural changes by Pennington County or on its behalf made on or after March 15, 2012, must comply with the 2010 ADA Standards.
44. In the event that Pennington County has already undertaken an alteration, addition, or other modification to any element identified in Attachments or otherwise after January 26, 1992, and prior to the Effective Date of this Agreement, Pennington County will submit, within six (6) months, a written report to the ILA and the United States pursuant to paragraph 49 below summarizing the actions taken and providing evidence establishing each individual element's compliance with the applicable architectural standard as permitted by 28 C.F.R. § 35.151(c) and its Appendix, copied below:

Date of Construction or Alteration	Applicable Standards
Before September 15, 2010	1991 ADA Standards or UFAS
On or after September 15, 2010, and before March 15, 2012	1991 ADA Standards, UFAS, or 2010 ADA Standards
On or after March 15, 2012	2010 ADA Standards

45. Within six (6) months of the effective date of this Agreement, Pennington County will have the ILA survey all facilities that are the subject of this Agreement for the purpose of identifying those that have multiple entrances not all of which are accessible. Also within six (6) months of the effective date of this Agreement Pennington County will install directional signage at all inaccessible entrances to each of its facilities and will place the international symbol for accessibility at each accessible entrance to a facility, in accordance with 28 C.F.R. § 35.163(b).
46. Newly Constructed Facilities: Pennington County will take the actions listed in Attachments I and M to make the newly constructed parts of Pennington County facilities for which construction was commenced after January 26, 1992, readily accessible to and usable by people with disabilities.
47. Program Access in Existing Facilities: Pennington County will take the actions listed in Attachments K(1), K(2), and M to make each of Pennington County's programs, services, and activities operating at a facility that is the subject of this Agreement, when viewed in its entirety, readily accessible to and usable by people with disabilities.
48. Facilities and Programs that the United States Did Not Survey: Pennington County will review compliance with the requirements of title II of the ADA for those Pennington County facilities and programs that the United States did not survey or review. The ILA will survey all Pennington County's facilities for compliance with title II of the ADA that the United States did not survey. Within one (1) year of the effective date of this Agreement, Pennington County will submit to the United States a detailed report from the ILA listing the access issues identified during the ILA's review together with the corrective

actions and completion dates proposed to resolve such issues. The proposed completion dates may be no later than six (6) months prior to the termination of this Agreement. The survey conducted by the ILA, the access issues identified, and the corrective actions and completion dates proposed will be consistent with the requirements of title II of the ADA; the review of Pennington County facilities and programs conducted by the United States for purposes of this Agreement; and the access issues, corrective actions, and completion dates reflected in Attachments I, K(1), K(2), and M.

IV. MISCELLANEOUS PROVISIONS

49. Except as otherwise specified in this Agreement, six (6) months after the effective date of this Agreement and annually thereafter until it expires, Pennington County will submit written reports to the United States summarizing its actions pursuant to this Agreement. Reports will include reports with certifications from the ILA, photographs showing measurements, architectural plans, notices published in the newspaper, and copies of adopted policies, among other things.
50. Throughout the term of this Agreement, consistent with 28 C.F.R. § 35.133(a), Pennington County will maintain the accessibility of its programs, activities, services, facilities, and equipment, including routinely testing accessibility equipment and routinely auditing the accessibility of its programs and facilities. This provision, however, does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. 28 C.F.R. § 35.133(b).
51. Within six (6) months of the effective date of this Agreement, Pennington County will submit for pre-approval by the United States a proposed training program, lasting at least half a day, on the requirements of the ADA and appropriate ways of serving people with disabilities. The submission will include a description of the training, the agenda, any handouts, and the name, title, and address of the trainer.
52. Within one (1) year of the effective date of this Agreement and annually thereafter, after approval of the training program by the United States, all Pennington County employees who have direct contact with members of the public will be trained for at least a half day on the requirements of the ADA and appropriate ways of serving people with disabilities. Within thirty (30) days after each training Pennington County will submit to the United States the list of employees trained.

V. IMPLEMENTATION AND ENFORCEMENT

53. Pennington County may seek to modify this Agreement because of changed conditions making performance impossible by notifying the United States in writing, setting forth the modification and the facts to support it. Until the United States agrees to the modification in writing, no modification will take effect. The United States' agreement will not be unreasonably withheld.
54. The United States may review compliance with this Agreement at any time. Pennington County will cooperate with the United States. If the United States believes that

Pennington County has failed to comply with this Agreement, then the United States will notify Pennington County in writing. If, after 30 days of providing Pennington County with written notice of non-compliance, the United States determines that Pennington has failed to come into compliance, the United States may institute a civil action in federal district court to enforce the terms of this Agreement and may take appropriate steps to enforce title II.

55. It is a violation of this Agreement for Pennington County to fail to comply in a timely manner with any of the requirements of this Agreement.
56. Failure by the United States to enforce any provision of this Agreement is not a waiver of the United States' right to enforce any provisions of this Agreement.
57. This Agreement is a public document. Pennington County will provide a copy of this Agreement to any person, upon request.
58. This Agreement (including its Attachments) is the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party will be enforceable. This Agreement does not remedy any other potential violations of the ADA or other federal law. This Agreement does not relieve Pennington County of its continuing obligation to comply with all aspects of the ADA.
59. This Agreement will remain in effect for three (3) years.
60. The person signing for Pennington County represents that he or she is authorized to bind Pennington County to this Agreement.
61. The effective date of this Agreement is the date of the last signature below.

For Pennington County:

LYNDELL PETERSON
Chairman
315 Saint Joseph Street
Rapid City, SD 57701

By: /s/ Lyndell Peterson

Date: 10/21/14

For the United States:

VANITA GUPTA
Principal Deputy Assistant Attorney General
EVE L. HILL
Deputy Assistant Attorney General

REBECCA B. BOND, Chief
KEVIN J. KIJEWSKI, Deputy Chief

By: /s/ Paula Rubin
PAULA RUBIN, Attorney
Disability Rights Section - NYA
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 307-0663
(202) 514-7821 (fax)

Date: 6/1/15