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MEMORANDUM OF AGREEMENT BETWEEN

THE CITY OF RAPID CITY

and

BLACK HILLS MOUNTAIN BIKE ASSOCIATION

This agreement is by and between the City of Rapid City, South Dakota, a municipal corporation (hereinafter referred to as City), and the Black Hills Mountain Biking Association, (hereinafter referred to as BHMBA), a non-profit organization in Rapid City, South Dakota.

PREAMBLE

The subject of this agreement is a portion of a larger park area of approximately 59.01 acres known as Founders Park. The park was purchased in 1973 after the flood of 1972 for the purpose of creating open space for flood protection. The larger park area encompasses the area north of Omaha Street and Rapid Creek at the terminus of Mountain View Road on the North. It is within the Rapid Creek drainage area.

The City Parks and Recreation Board have approved the use of this area as a public bike skills area submitted by the BHMBA. Among other responsibilities, the BHMBA will raise money to underwrite costs of development, promotion, and agreed-upon maintenance within this bike park.

AGREEMENT

The City and the BHMBA are involved in the development of a public bike park located in a larger park area known as Founders Park or the TRACT 17 LESS LOT H1 (ALSO IN 2N-7E SEC34) RAPID CITY GREENWAY TRACT. The public bike park covers approximately two acres on the Northwest section of the larger park.

Both the City and the BHMBA agree to the following regarding the approved bike park plan:

1. The BHMBA shall construct trails, jumps, and skills area substantially in accordance with the plan approved by the City.
2. The planned bike park is designed for healthy recreational use. Improvements are intended to create a useful park area, provide for recreational pursuits, healthy alternatives for youth, and an economic impact facility through bicycling, as well as to clean up the surrounding area.
3. The park shall be open to the public at times prescribed or scheduled by the Rapid City Department of Parks and Recreation.

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4. Except for construction initiated and undertaken by the City, the BH MBA will provide the money, materials, and other resources for construction of plan features. Both parties will agree upon any substantial additions or modifications to the bike park plan, and additional costs, if any, will be paid by the BH MBA unless other arrangements are made with the City. Any portion of the project paid for with tax revenue shall comply with applicable bid laws.
5. The BH MBA accepts financial responsibility for routine maintenance of jumps, access points, structures, trails, and signage constructed by the BH MBA. Assessment of routine maintenance needs will be a joint responsibility of the parties on an on going basis. Maintenance will be done in a timely fashion. The BH MBA will keep jumps and trails maintained at all time according to the plan of record, control weeds, undesirable plants, and litter. Labor may be voluntary. Emergency situations resulting from vandalism or acts of nature may require immediate attention and intervention by either party.
6. The BH MBA will pick up and remove trash or other items foreign to the bike park.
7. The City will be responsible for, and pay for, maintaining areas around the bike park, as necessary including trees within the bike park area. The City will be responsible for access from public parking areas and upkeep of the bike path. The City also will be responsible for upkeep of areas outside the bike park, and all police and fire protection in the park. Should materials from the bike park blow or otherwise get moved into the creek areas, bike path, street, or private property areas the BH MBA will be responsible to clean up litter.
8. All improvements will be in accordance with City, state, and federal rules and regulations. All improvements will be owned by the City of Rapid City.
9. If the BH MBA retains a contractor/landscaper to supervise construction of any improvements, the contractor/landscaper shall keep the City informed of progress on construction. All construction shall be considered a City project for purposes of the City's insurance coverage.
10. The BH MBA agrees to defend, indemnify and save harmless the City from any and all claims, damages, costs, and expenses, including reasonable attorney fees, arising out of or in connection with the conduct by any BH MBA member or it volunteers. This is and will be a City Recreation facility. As such the City will have full authority for the type of use and opening and/or closing the facility.
11. This agreement will remain in effect for a period of five years, when it may be renewed, altered, or terminated.

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12. If, at any time, the City deems the bike park a blight, or not up to City standards for a recreation area, the City will give a 30-day notice to get the bike park into compliance. If not corrected within 30 days, the City will have a right to dismantle, take out, or shut down the bike park.

13. This MOA can be canceled by 30-day written notice of either party.

EFFECTIVE DATE: In witness where, the parties hereto have executed this agreement this _____ day of _____, 2008.

CITY OF RAPID CITY

BLACK HILLS MOUNTAIN
BIKE ASSOCIATION

Mayor

President

ATTEST:

Finance Officer

(SEAL)