

LEASE AGREEMENT

For and in consideration of the mutual promises and agreements contained herein, the City of Rapid City, a municipal corporation, hereinafter referred to as the "City," of 300 Sixth Street, Rapid City, SD 57701, agrees to lease to Storybook Island, Inc., a South Dakota nonprofit corporation, hereinafter referred to as "SBI," of P. O. Box 9196, Rapid City, SD 57709, a specified area, known as "Storybook Island" subject to the following terms and conditions:

1. Property. The City hereby leases to SBI the Storybook Island complex legally described as:

**A portion of Tract 8, Rapid City Greenway Tracts, Section 3, T1N,
R7E, BHM, Rapid City, Pennington County, South Dakota**

commonly known as 1301 Sheridan Lake Road, as shown on Exhibit "A" attached hereto and incorporated herein by this reference.

2. Term. The term of this lease shall run from the date this Lease is signed by the Mayor until December 31, 2030. This lease may be terminated by either party giving notice of its intent to terminate said lease on or before October 15 of any year, which termination shall be effective as of January 1 immediately following unless otherwise stated.

3. Option to Renew. At the end of the lease term, SBI shall have the option to renew this Lease for another twenty (20) year term, which term would begin January 1, 2031, and end December 31, 2050, unless sooner terminated. SBI may exercise said option by giving written notice to the City no sooner than January 1, 2030, and no later than September 1, 2030.

4. Quadrennial Review. SBI shall appear before the Common Council of the City of Rapid City for a review of this Lease Agreement between January 1, 2013, and March 31, 2013, and every four years following. Such review shall be for the purpose of ensuring compliance with the provisions hereof and discussion of proposed amendments hereto. The Director of Parks and Recreation shall give SBI notice of each quadrennial review.

5. Surrender of Premises. SBI agrees to surrender and vacate the premises at the termination of this Lease. SBI further agrees to surrender the premises in the event such demand is made by the United States Government, or by the City after receiving demand so to do by the United States Government. SBI further agrees to abandon the premises whenever ordered by a court of competent jurisdiction or whenever the City is ordered to terminate this Lease by an order of a court of competent jurisdiction.

6. Use. SBI shall have use of the property and facilities during the lease period, subject to the terms of this Lease, for the purpose of providing a children's park and activities related thereto. SBI shall make no use of the property and/or facilities inconsistent with such purpose, and SBI shall comply with all federal, state, and local laws and regulations in carrying out said use.

7. Maintenance. All maintenance of the complex shall be provided by SBI including but not limited to keeping all grounds, sidewalks, trees, shrubbery, buildings, and all other structures in an attractive, safe, repaired condition. The City may assist SBI with the maintenance when the City deems it feasible.

Notwithstanding the above, the City, at its own expense, agrees to provide routine maintenance to the park's utilities infrastructure, including but not limited to, repair of broken water mains, sewer, storm sewer, parking lots and winterizing the irrigation system.

SBI agrees to designate a Facility Maintenance Coordinator. The Executive Director of SBI shall act as such Facility Maintenance Coordinator, and notice of any change in said position shall be promptly provided to the Director of Parks and Recreation or his designee.

SBI agrees to maintain said facilities to all city standards for buildings and grounds. SBI agrees to be responsible for policing the facility and on a regular basis to pick up and make ready for City collection all trash, debris, and waste material of every nature resulting from the use of the facility by itself or any visitors in attendance at such facilities. SBI agrees to provide its own trash receptacles for use at the facilities. SBI also agrees to place all collected trash, debris, and waste in a dumpster provided by the City for removal by the City. SBI further agrees to keep clean and maintain the concession and restroom facilities within the leased premises on a regular basis.

8. Mowing. SBI shall mow all grassy areas of the leased premises on a weekly or as needed basis, and shall provide for the fertilizing, aerating, and watering of such areas. Guidelines to be consulted for said mowing and maintenance are described in Exhibit "B" attached hereto.

9. Keys. SBI will make available to the Director of Parks and Recreation or his/her designee a set of keys and alarm codes, if any, for all facility gates. These keys will be used for inspection and emergency purposes only, and the Parks and Recreation Department will call SBI before entering the facility unless exigent circumstances exist.

10. Master Plan. SBI agrees to create a Master Plan for the Storybook Island complex. The Master Plan shall be prepared with the input and assistance of the Parks and Recreation Landscape Architect. A five-year Work Plan based on the Master Plan shall then be developed and updated each year.

11. Construction Approval. Construction and other new improvements at the premises shall be in conformity with the regulatory codes of the City and subject to the approval of the Parks and Recreation Director or his designee. Any denial by the Parks and Recreation Director may be appealed to the Common Council. To the extent possible, construction and improvements shall be included in the five year work plan. Any permanent improvements or fixtures constructed by SBI on the leased premises shall be considered the property of the City.

12. Expenses. SBI agrees to pay its own administration expenses. SBI further agrees that the electric utilities will be metered in the name and billed directly to SBI and that all expenses incurred by it shall be paid within thirty (30) days of the due date.

13. Public Accounting. SBI agrees to provide a copy of its IRS Form 990 the Director of Parks and Recreation within thirty (30) days after the Form 990 is filed with the IRS. Such form shall be available for public inspection. Additionally, SBI shall make its financial books and records available for inspection to the Director of Parks and Recreation or his/her designee upon request.

14. Donations. SBI shall have the right to seek and accept donations for the construction, expansion and management of Storybook Island subject to the terms and conditions provided in this Agreement.

15. Termination. The City shall have the option of terminating this Agreement if any of the following instances of default occur:

- a. SBI abandons the use of the premises for one season;
- b. SBI dissolves or is administratively dissolved;
- c. SBI enters any type of proceedings related to its insolvency, whether bankruptcy, receivership, or otherwise;
- d. The character of SBI's operation changes significantly from that of a nonprofit corporation organized to support and promote this children's park; or
- e. SBI defaults in its compliance with any other term or covenant hereunder, which default is not cured within sixty (60) days after notice is given.

Should the City choose to exercise its option to terminate this Agreement, such termination will be effective upon mailing of written notice to SBI, at which time SBI shall have no further rights under this Lease.

16. Liability. SBI agrees that the City shall be held harmless from any and all liability arising from any operation or use under this Lease of the described premises by SBI, its officers, directors, agents and/or employees or by any other person using the premises. SBI agrees to purchase and maintain liability insurance for each occurrence of injury or property damage in the minimum amount of One Million Dollars (\$1,000,000) with participant's injury liability of at least One Million Dollars (\$1,000,000) per occurrence. The City shall be named an additional insured in said policy or policies, and SBI shall annually furnish to the City evidence of insurance by a certificate of insurance of required coverage. Notwithstanding any provision herein to the contrary, if SBI shall fail to secure said insurance, if said insurance shall lapse, or if any other default of this Section occurs, SBI shall have fifteen (15) days to cure said default. The parties agree they will each be responsible for their own negligence.

17. Assignment and Subletting. This Lease shall not be assigned nor premises sublet by SBI except upon written consent and approval of the City Council.

18. Concessions. SBI shall have the right to operate concessions for the sale of beverages, food, programs, gifts, and other items customarily sold in public parks. All revenue derived from the concessions shall belong to SBI.

19. Parking. SBI agrees that it will permit no customer parking in the complex area except in the parking lots developed for the facility.

20. Notices. All notices given hereunder shall be made by hand delivery or certified mail, return receipt requested, to the parties at the following addresses:

Director of Parks and Recreation
Attn: Director of Parks and Recreation
125 Waterloo
Rapid City, SD 57701

Storybook Island, Inc.
Attn: Executive Director
P. O. Box 9196
Rapid City, SD 57709

21. Change of Contacts or Officers. SBI agrees to notify the Parks and Recreation Director of any changes in its officers or the address of business correspondence, within thirty (30) days after said change. Exhibit "C" attached to and incorporated by reference into the terms of this Lease contains the names and addresses of the current officers of SBI.

22. Condition of Premises; No Warranties; Release. The taking of possession of the premises by the SBI shall be conclusive evidence that Tenant (i) accepts the premises as suitable for the purposes for which same are leased; (ii) accepts the premises and each and every part and appurtenance thereof as being in a good and satisfactory condition, and (iii) waives any defects in the premises and its appurtenances. IT IS UNDERSTOOD AND AGREED THAT THE PREMISES ARE BEING LEASED HEREUNDER "AS IS," WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, BY THE CITY OF RAPID CITY. The City has not made (except as expressly set forth herein) any representations or warranties of any kind or character whatsoever, express or implied, with respect to the premises, its condition (including without limitation any representation or warranty regarding suitability, habitability, quality of construction, workmanship, merchantability, or fitness for a particular purpose), environmental condition or compliance with environmental or other applicable laws, and SBI acknowledges that it is entering into this Lease without relying upon any such statement or representation or warranty. The City shall not be liable, and SBI hereby releases the City, for injury or damage which may be sustained by SBI, or any invitee or their property, caused by or resulting from the state of repair of the premises.

23. Relationship between the Parties. This Lease does not create an employment relationship between the City of Rapid City and SBI's officers, directors, agents or employees. Nothing contained in this Lease is intended to create a partnership or joint venture between SBI and the City of Rapid City. No agent of SBI shall be the agent of the City, and SBI covenants that it will not take any action in the name of, or by holding itself out as the agent of, the City of Rapid City.

24. Non-Discrimination. SBI shall not on the grounds of race, color, sex, creed, religion, ancestry, national origin or disability discriminate or permit discrimination against any person or group of persons, in any manner prohibited by local, state or federal laws. SBI further agrees to comply with any requirements made to enforce the foregoing which may be required of or by the City.

25. Time of Essence. Time is of the essence of this Lease.

26. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

27. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

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

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

30. 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 Agreement, which shall remain in full force and effect.

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

32. Construction and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation under this Agreement shall be resolved in the circuit court of Pennington County, State of South Dakota.

[Signature pages follow]

DATED this _____ day of _____, 2009.

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

State of South Dakota)
) ss.
County of Pennington)

On this the _____ day of _____, 2009 before me, the undersigned officer, personally appeared Alan Hanks and James F. Preston, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

(seal)

Notary Public - South Dakota
My Commission Expires _____

DATED this 24th day of July, 2009.

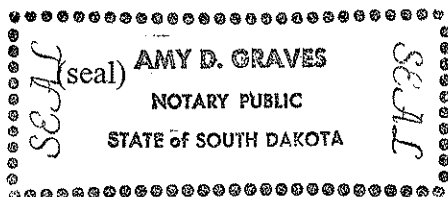
STORYBOOK ISLAND, INC.

Martha Rodriguez
Martha Rodriguez, President

State of South Dakota)
) ss.
County of Pennington)

On this the 24th day of July, 2009 before me, the undersigned officer, personally appeared Martha Rodriguez, who acknowledged herself to be the President of Storybook Island, Inc., a non-profit corporation, and that she, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.



Amy D. Graves
Notary Public - South Dakota
My Commission Expires My Commission Expires January 30, 2012

EXHIBIT "A"



EXHIBIT "B"

Turf Maintenance

Bluegrass and ryegrass turf areas should be maintained at a consistent growing height of 2 and ½ inches. Mowing should be done on a weekly interval or when no more than ⅓ of the grass blade will be removed. Grass clippings should be left on the turf areas as long as it is not left in clumps. Fields should be swept if excessive grass clumps are left after mowing.

No less than two (2) applications of fertilizer should be made on the ryegrass and bluegrass turf areas. Fertilizer recommendations shall be based on soil samples taken from the fields (to be submitted to a soils lab). No less than four (4) pounds of nitrogen per 1000 square feet should be applied per year.

All turf areas should be aerated with a core aerator at least once per year and arrangements shall be made with the City Parks Department for the aeration. Ideal time is prior to the application of fertilizer. All sprinkler heads should be marked prior to aeration to avoid sprinkler damage. Insect and disease problems should be identified and treated immediately by qualified turf care professionals. Broadleaf weed control should take place annually. Weeds should be controlled on all turf areas within the complex. Weed control along Rapid Creek will be handled by the Parks Department.

Turf areas that have irrigation should receive an average of 1 and ½ inches of water (including natural rainfall) per week. No more than three (3) inches of water should be applied to turf areas per week through the irrigation system. The irrigation system can be adjusted for optimum moisture conditions. Irrigation should take place within the guidelines set by the Rapid City Water Division and the City Council in order to meet current water use and irrigation restrictions. Turf care problems and questions should be referred to the Parks Division Manager.

EXHIBIT "C"

Officers and Directors of Storybook Island, Inc.

President

Martha Rodriguez
2735 Rawhide Drive
Rapid City, SD 57702

Vice President

Willis Sutliff
4819 Steamboat Circle
Rapid City, SD 57702

Secretary

Tom Graslie
4940 5th Street, Ste. 1E
Rapid City, SD 57701

Treasurer

Dave Garrett
636 Fox Run Drive
Rapid City, SD 57701

Past President

Robert Baker
13007 Overlook Drive
Rapid City, SD 57702

Member at Large

Hedie Bell-Gease
6144 Rustling Heights
Rapid City, SD 57702