

**LEASE AGREEMENT BETWEEN CITY OF RAPID CITY
AND SOCCER RAPID CITY**

For and in consideration of the mutual promises and agreements contained herein, the City of Rapid City (City), a municipal corporation, agrees to lease to Soccer Rapid City (SRC), organized under the laws of the State of South Dakota, a specified area to operate a city soccer league, subject to the following terms and conditions:

1. Consideration. The City hereby leases to SRC the below described premises ("Premises") for the sum of One Dollar (\$1.00) per year and other good and valuable consideration, including but not limited to, maintenance of general grounds, construction of incidental improvements and anticipated construction of more substantial improvements, administration of a soccer league open to the citizens of the City, responsibility for mowing of the fields, and responsibility for all electrical bills. Said sum is payable to the City of Rapid City on or before the first day of January of each succeeding year.

2. Term and Renewal. The initial term of this agreement is **from October 1, 2009 ("Effective Date") to May 31, 2013**. Thereafter, SRC shall have the option to renew the lease for nine (9) additional successive terms of ten (10) years each under the same terms and conditions set forth herein unless mutually agreed otherwise between the parties.

3. Premises. The Premises leased by the City to the Soccer League are described as follows:

ELK VALE ROAD:

The following property located in Section Twenty-One (21), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Pennington County, South Dakota:

The South Four Hundred Sixty Four and Sixty-Four Hundredths Feet (464.64') of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE1/4NW1/4NE1/4);

The South Four Hundred Sixty Four and Sixty-Four Hundredths Feet (464.64') of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) Less Lot H1;

The East Half of the Southwest Quarter of the Northeast Quarter (E1/2SW1/4NE1/4);

The Southeast Quarter of the Northeast Quarter (SE1/4NE1/4).

4. Surrender of Premises. SRC agrees to surrender the Premises, or a part thereof, in the event the demand is made by the United States government. They further agree to abandon the Premises, or a part thereof, whenever ordered to do so by a court of law or whenever the City is ordered to terminate said agreement by an order of any court.

5. Use. SRC shall have priority use of the Premises during the lease period, for the purpose of operating a city soccer league. SRC agrees that the City may use the Premises when the same is not required for use by SRC, and such use by the City shall be consistent with the normal usage of said Premises. City agrees that in the event it uses the Premises, City will restore and/or contribute to the maintenance of the same consistent with its use thereof and will leave the Premises in substantially the same condition, reasonable wear and tear excepted. For purposes of this section, City use shall mean organized activities conducted or sponsored by the City and not occasional use of the premises by the general public.

City's current use: City is presently leasing the Premises to another for purposes of harvesting hay. SRC agrees that City may continue as the Lessor with regard to further hay leases until such time as SRC requires physical possession of the Premises for any reason consistent with this lease. City agrees that it shall hold SRC harmless and otherwise indemnify SRC from any claims or demands that may arise out of City's use of the property or use by others under any hay crop or similar lease.

6. Use by Others. Both City and SRC agree that they may each allow other persons or organizations to temporarily use the Premises, subject to those reasonable

terms and conditions as SRC and/or City deem necessary, including but not limited to provisions for maintenance, electricity, and insurance. In the event one party desires to allow use by others, notice shall be given to the other so that such reasonable terms and conditions can be determined.

7. Maintenance. SRC agrees to maintain the Premises under the authority of the Parks and Recreation Director or his designee. SRC agrees to repair or replace any property damaged willfully by SRC's members or invitees which occurs while the Premises are in use by SRC. SRC agrees to be responsible for policing the Premises and to pick up and make ready for city collection of all trash, debris, and waste material of every nature (including mowing of weeds), resulting from the use of the Premises by itself or any spectators in attendance at such Premises. SRC agrees to provide its own trash receptacles for use at the Premises. SRC agrees to be responsible for the preparation of the playing fields prior to all scheduled game days. SRC also agrees to place all collected trash, debris, and waste in a designated location for removal by the City of Rapid City.

8. Mowing. SRC shall mow the playing fields, once the same are established, on a regular basis during the soccer season in accordance with good and customary playing field maintenance practices. The Parks Division Manager can mow the fields and charge SRC at the rate established by them to cover the City's cost including direct labor costs and any indirect costs for each man and machine used, provided that the Parks Division Manager: (1) determines the need for mowing; (2) gives SRC three (3) days notice of his intent to do so if SRC fails to mow; and (3) determines he has the available manpower and equipment. Should the Parks Division Manager not have the available manpower and equipment, he can arrange for a private contractor to mow at the expense of SRC.

9. Construction. The parties acknowledge that at the inception of the initial term of this lease, SRC is in the process of organizing and developing the Premises to be utilized as a centralized soccer complex. At the inception of the initial term of this lease, no improvements presently exist on the Premises. It is anticipated that on completion of the complex, SRC will have constructed multiple permanent improvements located on the Premises. The parties acknowledge that any permanent

improvements placed on the property will require a review pursuant to SDCL 11-6-19. SRC will be responsible for handling the application and any required paper work and/or exhibits required to complete the review. Such improvements will be made with prior approval of the plans by the Director of Parks and Recreation (DPR) or his designee. Any construction of buildings or other improvements at or on the Premises, including those that may be located in the flood plain, shall be in conformity with the regulatory codes of the city and subject to the approval of the Director of Parks and Recreation or his designee. The parties agree to renegotiate the terms of this lease in good faith as to ownership or incidental rights relative to the substantial improvements made or anticipated from time to time and expect that such renegotiation will occur at any time at which a review may be required under SDCL § 11-6-19 (review process).

10. Expense. The City of Rapid City shall assume no expenses as a result of this lease or any of the operations of SRC except for those expenses generated as a result of City's own use as referenced above. SRC agrees to pay its own administration expenses, including but not limited to, lights and electricity, grounds crew, office supplies, miscellaneous equipment, and secretarial fees. SRC agrees that the electric utilities will be metered in the name of and billed directly to SRC and that all expenses incurred by it shall be paid within thirty (30) days of due date.

11. Termination. If SRC shall dissolve or abandon the use of the Premises for one soccer season, this lease shall be terminated and SRC shall have no further rights hereunder. Discontinuation of use of all or part of the Premises, for any amount of time for maintenance, repair or rehabilitation purposes of the grounds shall not be deemed as abandonment. The parties shall have the right to terminate the lease upon 60 days written notice in the event of substantial failure of the other party to perform in accordance with the lease terms. Notwithstanding this provision, the lease will not be terminated for substantial failure if the party receiving such notice cures such failure within thirty (30) days of the notice being sent. If the party in breach has attempted to diligently cure the breach, to the extent such breach cannot be reasonably cured within thirty (30) days, the other party may grant such additional time to cure as it deems appropriate, but is under no obligation to do so.

If SRC has not began construction of the soccer improvements contemplated in paragraph 9 of this lease, or entered into a contract for construction of such improvements, within two (2) years of May 31, 2010, the City may terminate this lease at any time from that date until such time as a contract for construction has been entered into.

12. Liability. SRC 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 it or its agents or employees or any other person using the Premises. SRC further agrees to defend the City against any and all claims arising from the operation or use under this lease of the described Premises by it or its agents or employees or any other person using the Premises. SRC agrees to purchase and maintain bodily injury and property damage insurance for each occurrence of injury or damage in the minimum amount of One Million Dollars (\$1,000,000) with participant's injury liability of at least Five Hundred Thousand Dollars (\$500,000). The City shall be named an additional insured in said policy or policies and the SRC shall furnish to the City evidence of insurance by a certificate of insurance of required coverage.

13. Assignment or Subletting. This lease shall not be assigned, nor the Premises sublet, by SRC except on written consent and approval of the City.

14. Concession, Advertising, and Naming Rights. SRC shall have the right to operate concessions for the sale of beverages, food, programs, and other items usually sold in the public parks. SRC shall have the right to sell advertising space on the inside of the Premises boundaries and all revenue derived from concessions and advertising shall belong to SRC. SRC also agrees to be responsible for cleaning and maintaining the concession area.

SRC and City shall jointly hold all naming rights for the facilities and Premises and any naming of fields, buildings, improvements or areas shall be by mutual agreement. Consent sought by one party from the other shall not be unreasonably withheld.

15. City Authority. All matters pertaining to the terms of this lease shall be subject to the powers of the City Council and its designated authorized agents consistent with the laws of the State of South Dakota.

16. Change of Contacts and Officers. SRC agrees to notify the Director of Parks and Recreation of any changes in the officers of SRC within thirty (30) days after said change. Attached to and incorporated by reference into the terms of this agreement are the names and addresses of the current office holders of SRC.

17. Non-Discrimination. SRC 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. SRC further agrees to comply with any requirements made to enforce the foregoing which may be required of or by the City.

18. Relationship Between the Parties. This lease does not create any employee/employer relationship between the City of Rapid City and SRC, its agents or employees.

19. Integration. The parties agree that this agreement constitutes the entire understanding between them and that there are no other oral or collateral leases or understandings of any kind or character except those contained herein.

20. Savings Clause. Should any of portions of this Lease be declared void, the remainder of the Lease shall remain in full force and effect.

21. Choice of Law. This Lease shall be governed by the laws of the State of South Dakota and any action to enforce the terms of this Lease shall be venued in the 7th Judicial Circuit, Pennington County, South Dakota.

Dated this ____ day of _____, 2009.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer
(SEAL)

SOCCER RAPID CITY

By: _____

Its: _____

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.

Notary Public, South Dakota

My Commission Expires: _____

(SEAL)

State of South Dakota)
 SS.

County of Pennington)

On this the _____ day of _____, 2009, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the President of Soccer Rapid City, and that he, as such President, being authorized so to

do, executed the foregoing instrument for the purposes therein contained by signing the name of Soccer Rapid City by himself as President.

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

Notary Public, South Dakota

My Commission Expires: _____

(SEAL)