



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## OFFICE OF THE CITY ATTORNEY

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### MEMORANDUM

TO: Common Council

FROM: Carla Cushman, Assistant City Attorney

DATE: January 6, 2014

RE: *Second Version of Amendment to Golf Course Food and Beverage Concession Agreement*

I have updated the *Amendment to Golf Course Food and Beverage Concession Agreement* to respond to some confusion about the provision concerning payment of utilities, found in paragraph 4 on pages 2-3. I made the following changes:

- I included a heading of *City Responsibilities* to more clearly distinguish that the City would pay all of the regular utility costs for the facility, and that the City would not seek reimbursement from Concessionaire for utility costs which arose during months where the restaurant is closed.
- On the top of page 3, I included a heading of *Concessionaire's Share of Utility Costs* to address the Concessionaire's share of the utilities during those months when the restaurant is open. The understanding between Parks and Rec and the Concessionaire has always been that the City would pay *at least* 25 percent of the utility costs, and the Concessionaire would pay *no more than* 75 percent of the utility costs arising from the months the restaurant was open, with the specific percentage of reimbursement being based on the number of starts as earlier defined in the agreement. However, the mix of percentages in the original agreement was confusing. So I updated the percentages to reflect that the City would always pay 25 percent of the utility costs, plus more based on the number of annual starts, and that the Concessionaire would pay no more than 75 percent of the utility costs, and possibly less based on the annual starts.

- In that same section, I clarified that the Concessionaire would provide its reimbursement *for the utilities* by December 30, after the calculation of the amount of starts during the season was provided by the City.

Hopefully this makes the agreement more clear. If you have any questions, please feel free to contact me at any time.