

**AMENDMENT TO SEWER SERVICE AGREEMENT BETWEEN PRAIRIE ACRES
LLC AND CITY OF RAPID CITY, SOUTH DAKOTA**

WHEREAS, the sewer service agreement (Agreement) was entered into on November 16, 2015 by and between Prairie Acres LLC, (the "Landowner"), of 2348 Carter Drive, Rapid City, South Dakota, 57701, and the **CITY OF RAPID CITY** (the "City"), a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South Dakota, 57701; and

WHEREAS, the Landowner has completed the construction of the public sewer main within the portion of its property outside the City, and

WHEREAS, the Landowner desires to connect the private sewer system to the public sewer system as soon as possible; and

WHEREAS, Section 4.A of the Agreement requires the portion of the property outside the City to be annexed prior to sewer service being provided for the property; and

WHEREAS, the Landowner has been unable to obtain the necessary signatures for the voluntary annexation petition; and

WHEREAS, on December 7, 2015, the Rapid City Common Council authorized staff to begin involuntary annexation of said property; and

WHEREAS, the involuntary annexation process may take several months to complete; and

WHEREAS, the parties agree that Section 4.A of the Agreement should be amended to remove the obligation of the Landowner to annex the property prior to sewer service being provided; and

WHEREAS, the parties therefore seek to amend the Agreement.

NOW THEREFORE, for and in consideration of the mutual promises, covenants, and agreements herein contained, the parties covenant and agree as follows:

1. Incorporation of Recitals. The aforementioned recitals are incorporated herein by reference as if more fully set forth hereinafter.
2. Amendments to Landowner Obligations.

SECTION FOUR A

Section 4.A of the Agreement shall be deleted and replaced in its entirety with the following:

- A. The Landowner shall pay to the City monthly service charges based upon the volume of sewage as tabulated under SECTION TWO. The rate charged for sewer within the City of Rapid City shall be per Section 13.16.360 of the Rapid City Municipal Code. The current established

rate is \$3.25/unit. The rate will be periodically increased in accordance with any changes to the Rapid City Municipal Code. Once connected to City sewer, the rate for both properties shall be per the current established rate.

Once the property is annexed, the rate shall be per the Rapid City Municipal Code. The parties understand that per Landowner's request, the City has begun the procedures to involuntarily annex the properties pursuant to South Dakota Codified Laws Chapter 9-4 *et seq.* Landowner agrees that its owners, agents, and employees will not object to the involuntary annexation in any manner, including pursuing legal options for objection found within SDCL Chapter 9-4. In the event the property is not annexed, the property outside the City shall immediately pay 300% of the rate established by ordinance, until the property is annexed or another agreement is reached by the parties.

3. Balance of Agreement Terms Remain. All other terms of the Agreement shall remain unchanged, and in full force and effect. In the case of conflict of another portion of this Agreement not amended hereby with the amended sections above, the amended sections and the intent of those amended sections, shall control.

Dated this _____ day of _____ 2016.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

