

Prepared By: City Attorney's Office  
300 Sixth Street  
Rapid City, SD 57701  
605-394-4140

### **REVOCABLE NO-BUILD EASEMENT**

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CITY OF RAPID CITY ("City"), a municipal corporation located at 300 Sixth Street, Rapid City, South Dakota, 57701, Grantor, as owner of real property located at 713 7<sup>th</sup> Street, Rapid City, South Dakota, 57701, hereby grants to UNK PROPERTIES, LLC, a South Dakota limited liability corporation, located at 3711 Parkridge Drive, Rapid City, South Dakota 57702, the Grantee, as owner of real property located at 716 Quincy Street, a perpetual no-build easement subject to the conditions hereinafter set forth.

WHEREAS, City owns the following property located at 713 7<sup>th</sup> Street, Rapid City, and legally described as:

**The east half of Lot 26 and all of Lots 27-32 and the south half of the vacated alley adjacent to Lots 28-32 of Block 103 of the Original Town of Rapid City, located in Section, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, as shown in Exhibit 'A'**

("City's property"); and

WHEREAS, Grantee owns the property located at 716 Quincy Street, Rapid City, directly west of City's property and legally described as follows:

**The east half of Lot 24 and all of Lot 25 and the west half of Lot 26 of Block 103 of the Original Town of Rapid City, located in Section, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.**

("Grantee's property"); and

WHEREAS, Grantee wishes to construct windows on apportion of the east side of the building located upon Grantee's property, which wall is located on the property line between City's property and Grantee's property. Under applicable building codes, such construction is not permitted unless a fire separation distance of at least ten feet is provided by Grantee; and

WHEREAS, Grantee could accomplish this separation by securing a ten foot no-build easement to create the ten feet of space on the City's property as an alternate to the 2012 International Building Code as adopted and amended by the City of Rapid City in Rapid City Municipal Code 15.04.090; and

WHEREAS, City is willing to grant a revocable no-build easement as hereinafter described with the clear understanding that such easement is revocable by the City in its sole discretion and without compensation to Grantee or its successors in interest; and

WHEREAS, Grantee acknowledges that the no-build easement granted hereinafter is revocable by the City in its sole discretion and without compensation and further understands that if such easement is revoked that the right to have the windows on the common boundary will lapse and the windows will have to be removed, the openings closed, and the building brought into full compliance with applicable codes to the same extent as if this easement had not been granted.

Therefore, for and in consideration of the sum of One Dollar (\$1.00), City grants to Grantee a revocable no-build easement as hereinafter described, subject to the terms and conditions as hereinafter set forth, over and upon a portion of the Property described below and in accordance with the attached Exhibit A:

**The east half of Lot 26 of Block 103, Original Town of Rapid City, Pennington County, South Dakota.**

1. The City agrees that during the period this easement is in effect that it will not build any permanent building, garage, or shed in the area covered by the easement which would cause the Grantee's property to be in violation of City building codes or restrictions. The parties agree that this restriction does not apply to fences of any height or material, gates, sculptures, landscaping, or awnings.

2. The City shall have the right in its sole discretion, and for any purpose whatsoever, to terminate this easement upon six months written notice to the current owner of Grantee's property. Such notice shall be effective upon mailing by certified mail to the address of the then current owner as shown on the records of the Director of Equalization of Pennington County.

3. Grantee agrees that in the event this easement is terminated it will promptly and within six months from the effective date of the notice cause the windows to be removed, cause the openings to be closed, and otherwise make such changes to the building as will correct any condition relating to such windows and openings as are in violation of any building code or restriction.



DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

UNK PROPERTIES, LLC

\_\_\_\_\_  
Eric Unkenholz, President

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

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, the undersigned officer, personally appeared Eric Unkenholz, who acknowledged himself to be the President of UNK PROPERTIES, LLC, 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 the corporation by himself as President.

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

\_\_\_\_\_  
Notary Public, South Dakota

My Commission Expires: \_\_\_\_\_

(SEAL)