

AGREEMENT BETWEEN THE CITY OF RAPID CITY
AND BLACK HILLS WORKS FOR CUSTODIAL SERVICES
FOR PARKS AND RECREATION FACILITIES

This Agreement is entered into this ____ day of _____, 2013, by and between the City of Rapid City (“City”), a municipal corporation organized under the laws of the state of South Dakota, of 300 Sixth Street, Rapid City, SD 57701, and Black Hills Works, P.O. Box 2104, Rapid City, SD 57709-2104. The parties agree to the following terms:

1. Purpose of Agreement. The purpose of this Agreement is to outline the responsibilities of the parties regarding the awarding of the bid for custodial services to Black Hills Works on April 1, 2013.

2. Custodial Services. Black Hills Works agrees to provide the following custodial services at various facilities within the park system owned by City, including restroom facilities and picnic shelters:

Fixtures: Clean toilets and urinals with toilet bowl cleaner/disinfectant daily. Clean and disinfect all stainless steel fixtures with stainless steel cleaner daily.

Floors: Sweep all restroom floors and damp mop with a disinfectant cleaner daily. Sweep all floors in Shelter areas daily. Wash and squeegee dry Shelter Floor twice weekly or as conditions dictate.

Walls: Clean monthly or as needed to remove dirt, graffiti, spider webs, etc.

Picnic tables: Wash twice weekly or as conditions dictate all tables located inside shelter.

Toilet tissue rolls: Replace toilet tissue rolls when less than ¼ full.

Trash cans: Empty daily all trash cans located inside restrooms. Liners will be provided by City. Empty daily all trash cans inside shelter area. Empty daily all trash cans located on concrete perimeter. Deposit trash in 300 gallon dumpsters located throughout the park system. Not all parks have 300 gallon containers so trash will need to be transported to closest park with dumpster service.

Supplies: Supply all cleaning supplies other than trash can liners and toilet tissue.

Black Hills Works agrees to complete these custodial services performed on each weekday by 1:00 p.m. and to complete custodial services performed on Saturdays and Sundays by 10:00 a.m. The word “daily” as used above and elsewhere in this Agreement means the activity must be done seven days a week, and the parties agree that custodial services that are to be performed “daily” must be done each day of the week.

Black Hills Works agrees to furnish all necessary labor, material and equipment to complete the custodial services provided above, unless otherwise specified in this agreement. All

custodial services provided by Black Hills work will be subject to the approval by the Director of Parks and Recreation or his designee.

Black Hills Works agrees to perform the above custodial services on the 2013 dates provided in the Request for Bids attachment labeled Opening/Closing Dates, attached as Exhibit A. The parties agree that the dates during which Black Hills Works will perform the above-described custodial services in 2014 and 2015 will be determined by the City's Parks Division Manager and timely provided to Black Hills Works.

3. City Obligations. City agrees to provide all necessary trash can liners and toilet tissue. City agrees to provide 300 gallon dumpsters within its park system for Black Hills Works to deposit collected trash.

4. Black Hills Works Obligations. Black Hills Works agrees to immediately report any vandalism, unsafe conditions, or repair needs to City's Parks Division Office. Black Hills Works agrees to immediately report to City's Parks Division Office any acts witnessed by its agents or employees which violate area regulations. Black Hills Works agrees to gather appropriate information concerning such acts and forward that information on to the Parks Division Office. The parties agree that Black Hills Works is not to otherwise respond to any such violation or to contact any offending individuals.

Black Hills Works agrees to contact City's Parks Division Office once it has completed weekly duties. City reserves the right to inspect the custodial services provided by Black Hills Works at any time, with or without advance notice. If City inspects any area in which Black Hills Works performed custodial services and determines that the services provided do not meet the requirements listed in Section 2 above or in the Request for Proposals, City will promptly notify Black Hills Works of the deficiency. Black Hills Works agrees to remedy the deficiency within 24 hours of notification of the deficiency, unless additional time is requested by Black Hills Works and the request is granted by the City.

5. Term. The term of this Agreement begins on the above date. This Agreement expires on December 31, 2015. Either party may terminate this Agreement for any reason. The party so terminating this Agreement must provide written notice of termination at least thirty (30) days prior to the date of termination. If either terminates the agreement, City agrees to pay Black Hills Works for custodial services provided prior to termination which were accepted by the City.

6. Price for Work. Black Hills Works agrees to perform the custodial services for a total annual price not to exceed Sixty Seven Thousand Dollars (\$67,000). Black Hills Works will only be paid for Work actually performed and accepted by City.

7. Payment. Black Hills Works agrees to bill City by invoice not less than once every two months. City shall remit payment to Black Hills Works within forty-five (45) days of each invoice.

8. Insurance and Indemnification. Black Hills Works will file furnish proof of general liability insurance in the minimum amount of \$1 million per occurrence and \$2 million

aggregate. Black Hills Works agrees to indemnify and hold harmless the City against any claims, demands and causes of action arising out of the performance of the terms of this Agreement.

9. Employee Benefits and Requirements. Black Hills Works agrees to provide its employees for the work and agrees to pay all benefits, insurance and workers compensation costs that Black Hills Works would normally pay their employees for this work.

10. Relationship between the Parties. Black Hills Works is an independent contractor of the City. This Agreement does not create an employment relationship between the City and Black Hills Works or its agents or employees. Nothing contained in this Agreement is intended to create a partnership or joint venture between Black Hills Works and the City of Rapid City. No agent of Black Hills Works shall be the agent of the City, and Black Hills Works 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.

11. Time of Essence. Time is of the essence of this Agreement.

12. 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.

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

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

15. 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.

16. 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.

17. 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.

18. 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.

Dated this _____ day of _____, 2013.

CITY OF RAPID CITY

Sam Kooiker, Mayor

ATTEST:

Finance Officer
(SEAL)

BLACK HILLS WORKS

By _____
Its _____

STATE OF SOUTH DAKOTA

)ss.

COUNTY OF PENNINGTON)

On this the _____ day of _____, 2013, before me the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of Black Hills Works of Rapid City, and as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of Black Hills Works.

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

(seal)

Notary Public, State of South Dakota
My Commission Expires: _____