

**LEASE AGREEMENT BETWEEN THE 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 December 1, 2014 (“Effective Date”) to May 31, 2019**. Upon expiration of the term, SRC shall have an exclusive right to enter into a lease with City for the Premises for two (2) additional successive terms of ten (10) years each. Any future lease agreements shall be under the terms and conditions mutually agreed to by the parties at the time of renewal.

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

**The East One Thousand Forty Feet (1040’) of 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 by SRC. SRC shall have priority use of the Premises during the period of this Agreement, for the purpose of operating a city soccer league.

6. Use by City. 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 is presently leasing a portion of 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 entire Premises for any reason consistent with this Agreement.

7. 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 agreed upon by the parties.

8. Maintenance. Upon SRC commencing play on the Premises, 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 all trash, debris, and waste material of every nature resulting from the use of the Premises by itself or any spectators in attendance at such Premises. SRC agrees to provide its own trash and recycling 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, recyclables, debris, and waste in a designated location for removal by the City of Rapid City. SRC agrees to promote and encourage recycling throughout the Premises.

City, at its own expense, agrees to provide unique or unusual maintenance and routine maintenance to the infrastructure, including but not limited to repair of broken water mains, sewer, storm sewer and all repairs and surface maintenance of parking lots. The City agrees to provide water to the premises for the purpose of watering the playing field grass. The City specifically reserves the right to restrict water usage under this Agreement if water restrictions are placed on other water users within the City. City shall be responsible for operation via Central Irrigation Control of the soccer complex irrigation system, including time and duration of any irrigation, and will make necessary repairs to irrigation system components up to and including zone valves. SRC will be responsible for repairs to lateral lines and irrigation heads per the City of Rapid City Irrigation Standards, 2014. SRC will be responsible for the pumping and maintenance of the sanitary sewer holding tanks located on-site.

City shall be responsible for winterization and spring start up of the irrigation system. SRC will contact City by March 1<sup>st</sup> of each year to coordinate the spring start up of the irrigation system at the Premises and shall designate an individual from SRC to walk through the Premises at spring start up with Parks Maintenance staff to identify any necessary repairs to the irrigation system. SRC will be issued an Irrigation Radio Controller for the season and be provided a map of the irrigation system; Radio Controller shall be returned to the City at the end of the season. SRC will be responsible for loss or damage to Radio Controller.

The Premises and all improvements shall remain in a state of high quality. SRC shall be responsible for all maintenance of structures, fences, and signage including the on-going maintenance of any permanent and temporary restroom facilities.

9. Mowing, Landscape and Snow Removal Maintenance. Upon SRC commencing play on the Premises, SRC shall be responsible for all mowing and landscape maintenance throughout the entire Premises, including mowing, fertilizing, weed control of both playing fields and non-playing field areas, fence lines, parking lot islands, and landscape beds. Playing fields shall be mowed on a regular basis during the soccer season in accordance with good and customary playing field maintenance practices, and non-playing field areas shall be mowed and maintained on an as-needed basis. Snow removal will be the responsibility of SRC.

If SRC fails to fulfill its responsibilities under this Section, this failure constitutes a substantial failure and the City may elect to terminate the Agreement pursuant to Section 12 of this Agreement. In the alternative, the Parks Division Manager can arrange for the fields to be maintained in accordance with this Section and can charge SRC for the City's cost to perform such mowing/maintenance provided that (1) the Parks Division Manager determines the need for mowing and/or maintenance; (2) City provides notice to SRC of its intent to perform the maintenance; and (3) SRC fails to mow or perform the maintenance within three (3) days of receipt of the notice. City may perform this mowing and/or maintenance itself, or it may arrange for a private contractor to do so; SRC's obligations to pay for the cost under this Section are not dependent upon who performs the mowing/maintenance.

10. Construction. The parties acknowledge that at the inception of the initial term of this Agreement, SRC is in the process of organizing and developing the Premises to be utilized as a centralized soccer complex. At the execution of this Agreement, some improvements presently exist on the Premises. It is anticipated that SRC will construct multiple permanent improvements on the Premises. The parties acknowledge that any permanent improvements to be placed on the Premises shall have prior approval from the City and shall meet all applicable City codes and ordinances, including any planning and development requirements of City for such improvements. SRC will be responsible for obtaining all necessary permits and approvals and for providing any required paper work, fees, and/or exhibits required to obtain the permits or approvals or to otherwise complete the planning and development review process. Any construction of buildings or any 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 written approval of the Director of Parks and Recreation or his designee prior to issuance of building permits for construction.

All improvements to the Premises which are constructed as part of this Agreement will be owned by the City.

11. Expense. City shall assume no expenses as a result of this Agreement 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, custodial services, 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.

Unless otherwise agreed to by City, SRC agrees to provide all funds and resources for planning, design, and construction of the Premises as a soccer facility. All costs expected and unexpected will be paid by SRC unless other arrangements are made with the City. Any portion of the project paid for with public funds shall comply with applicable bid laws.

12. Termination. If SRC shall dissolve, become insolvent or otherwise unable to fulfill the terms of this Agreement, or abandon the use of the Premises for one soccer season, this Agreement shall be terminated and SRC shall have no further rights hereunder. Discontinuation of use of all or part of the Premises for maintenance, repair or rehabilitation purposes of the grounds shall not be deemed as abandonment.

The parties shall have the right to terminate the Agreement upon 60 days written notice in the event of substantial failure of the other party to perform in accordance with the Agreement's terms. Notwithstanding this provision, the Agreement 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.

13. Liability. SRC agrees that the City shall be held harmless from any and all liability arising from any operation or use under this Agreement of the described Premises by SRC 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 Agreement of the described Premises by it, its agents, employees, or any other person using the Premises. At the time of execution of this Agreement, 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. The parties agree that the City may adjust these insurance requirements on an annual basis and will provide written notice to SRC of any additional requirements for insurance required by this Section.

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

15. 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, including restrooms.

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 of the parties. Consent sought by one party from the other shall not be unreasonably withheld.

16. City Authority. All matters pertaining to the terms of this Agreement 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.

17. 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.

18. 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.

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

20. 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.

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

22. Choice of Law. This Agreement shall be governed by the laws of the State of South Dakota and any action to enforce the terms of this Agreement shall be venued in the 7<sup>th</sup> Judicial Circuit, Pennington County, South Dakota.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer  
(SEAL)

State of South Dakota )

SS.

County of Pennington )

On this the \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned officer, personally appeared Sam Kooiker and Pauline Sumption, 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)

SOCCKER RAPID CITY

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of South Dakota )

SS.

County of Pennington )

On this the \_\_\_\_ day of \_\_\_\_\_, 2015, 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)