

WATER SERVICE AGREEMENT BETWEEN THE CITY OF RAPID CITY AND RED ROCKS GOLF CLUB, LLC

This Agreement is made and entered into by and between the City of Rapid City, a municipal corporation of the State of South Dakota, located at 300 Sixth Street, Rapid City, South Dakota 57701 (the "City") and Red Rock Golf Club LLC, a South Dakota corporation, located at 6520 Birkdale Dr., Rapid City, South Dakota 57702 ("Red Rocks").

1. Purpose. The purpose of this agreement is to set forth the terms and conditions whereby the City shall provide untreated water from the city owned well known as Well No. 13 to Red Rock Golf Club LLC, for irrigating purposes only, and to establish the rates to be charged for such water service.

2. Service area. The area upon which the irrigation water may be used shall consist of the Red Rock Golf Course as it exists at the time of this agreement. No other property shall be served pursuant to this agreement without the express written consent of the City.

3. Connection. All water provided pursuant to this agreement shall be delivered to Red Rocks from Well No. 13. Red Rocks shall be responsible for providing, at its sole expense, a suitable means of connecting to the City's water system at the meter located on the Well No. 13 lot.

4. Term. This agreement shall be in effect for calendar year 2015 through the end of 2019 and shall be subject to annual renewal thereafter by the agreement of both parties, and subject to the rate adjustment prescribed in city ordinance. It is specifically understood that it is contemplated that this agreement shall be renewed, with rate adjustments, for an indefinite number of annual terms and that the City will not unreasonably refuse to renew the agreement.

5. Payments. All water taken from the City system shall be metered and billing and shall be presented to Red Rocks monthly. Red Rocks shall promptly make all payments due hereunder to the City within thirty (30) days after the billing date. Failure by Red Rocks to make such payment shall be sufficient cause for the City to terminate water service upon five (5) days notice to Red Rocks.

6. Rates. The amounts to be paid by Red Rocks to the City shall be calculated as follows: for each unit of water taken from Well No. 13, Red Rocks shall pay the raw water rate established by city ordinance. For each unit of water not supplied by Well No. 13, except in the case of well failure, Red Rocks shall pay for such water at the wholesale rate established by the City then in effect. Additionally, Red Rocks shall pay a monthly meter charge established by the City for commercial users for each month water is delivered to Red Rocks from the City.

7. Well Failure. In the case of a well failure, Red Rocks may obtain up to 14,000 units of treated water per month from the City at the raw water rate established by city ordinance. The water shall be taken from an agreed upon location as close to the well site as is practicable. Red Rocks agrees to pay the wholesale rate established by City ordinance for any treated water supplied by the City over and above the 14,000 units. Notwithstanding anything else contained in this agreement, the City shall have no liability to Red Rocks in the event the City is unable to provide untreated water to Red Rocks from Well No. 13, which is caused by a mechanical failure in the well or a failure of the City's water system which prevents the City from fulfilling its obligations under this agreement.

8. Restriction on Water Use. Use by Red Rocks of water pursuant to this agreement shall be subject to such watering restrictions as the City may impose; provided, nonetheless, restrictions imposed by the City shall not be more stringent than the restrictions imposed by the City upon itself for irrigation of municipally owned golf courses.

9. Understanding. The parties recognize and agree that this agreement contemplates the use by Red Rocks of water for irrigation purposes only; parties further agree that additional areas of landscaping may be added to the service area by agreement of the parties. The parties further agree that this agreement shall be assignable in whole, but not in part, to a responsible successor in interest. Assignment of this agreement by Red Rocks shall be subject to the prior approval of the City, which approval shall not be unreasonably withheld.

10. Waiver of Consequential Damages. The parties mutually agree to waive any consequential, special, or other damages of a similar nature.

11. Integration. This Agreement contain the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior agreements, negotiations, and understandings, whether written or oral, relating to the subject matter hereof. This Agreement may only be amended by a written document duly executed by all parties.

12. Choice of Law and Venue. This agreement will be governed under the laws of the State of South Dakota. Any action concerning this agreement shall be venued in Pennington County in the Circuit Court for the Seventh Judicial Circuit.

Dated this ____ day of _____, 2015.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

RED ROCK GOLF CLUB, LLC

By: _____

Its: _____