

**GOLF COURSE  
FOOD AND BEVERAGE CONCESSION AGREEMENT**

1. Parties. The parties to this agreement are the City of Rapid City, hereinafter called “City”, and Dick and Waneta Ragels, hereinafter called “Concessionaire”.

2. Purpose. The purpose of this agreement is to establish the rights and conditions under which the City leased the Meadowbrook Golf Course and the Executive Golf Course Concessions to the Concessionaire for the limited purpose of conducting food and beverage concessions. This shall be for all food and beverages (including beer) sold at Meadowbrook and the Executive Golf Course.

3. Lease. The City hereby leases to the Concessionaire the property commonly known as the Meadowbrook Golf Course Concession. The legal description of the property is: Tract 4 of Rapid City Greenway Tract, Rapid City, Pennington County, South Dakota. The City also leases appropriate space at the Executive Golf Course, the legal description is Tract 18B of Rapid City Greenway Tract, Section 35, T2N, R7E, Rapid City, Pennington County, South Dakota, to sell pre-packaged food and beverage items. This lease is for the sole purpose of a food and beverage concession.

The Concessionaire shall engage in no other business on said premises except the sale of food and beverage and related items. The Concessionaire shall be under the direct supervision of the Park & Recreation Director or his designee. Concessionaire must provide a menu for each facility including pricing for each item. Said menu must be approved by the Park & Recreation Director.

The Concessionaire shall submit a complete year-end financial report by March 1<sup>st</sup> to the Finance Officer. This report shall be kept strictly confidential

4. Beer License. The Concessionaire shall at all times maintain a current license for the purpose of selling malt beverages/wine licenses at Meadowbrook and malt beverages at Executive, and the failure to maintain such license shall be grounds for termination by the City. The Concessionaire further agrees that the malt beverage/wine licenses will be transferred back to the city or its designee at the end of the lease with no separate compensation being paid by the city to Concessionaire for the license.

5. Maintenance and Sanitation. Concessionaire shall at all times maintain the leased premises, including equipment, in a neat, clean, and sanitary condition and in good repair and

shall comply with all federal, state, and municipal rules, statues, ordinances and regulatory measures and laws of any kind applicable to the operation of the Concessionaire.

Concessionaire shall be responsible for all interior finishes, light bulbs, restroom supplies, and other similar maintenance items. Concessionaire shall also be responsible for maintenance, cleaning and custodial of restrooms at Meadowbrook Golf Course. Specifically, Concessionaire shall be responsible for any blockage of the sewer system unless such blockage is determined to have resulted from a cause other than Concessionaire's occupancy of the premises.

The City shall be responsible for maintaining the exterior of the premises, structural integrity of the premises, building electrical, plumbing, heating, air conditioning, and similar items, and snow removal of parking lot and bike path to be completed before 7:00 a.m. unless extraordinary circumstances occur such as more than 12 inches of snow and drifts that might occur because of wind, subject to the previously stated obligations of the Concessionaire.

6. Term. The term of the lease shall be from May 1, 2004 to December 31, 2005. The Concessionaire agrees to pay to the City \$1,100 per month beginning May 1, 2004 through December 31, 2004. The concession agrees to pay the City \$1,200 per month from January 1, 2005 to December 31, 2005. In 2005, the rent will increase by \$100per month to \$1,300 if the net profit of the concessionaire increases by 10%. If the net profit increases by 20% in 2004, the 2005 rent will increase \$200 per month to \$1,400.

7. Hours. The hours of operation shall be submitted to the Parks & Recreation Director for approval prior to the concession opening its operations. Modifications in the hours of operation may be allowed by the Park & Recreation Director when the Concessionaire has provided documentation of a seasonal lack of business.

Concessionaire shall adequately staff the leased premises during any time the leased premises are open to the public for business. Concessionaire shall require any employee who works directly with the public to wear an appropriate uniform or dress in a manner that is complimentary and consistent with the décor of the leased premises, or mandated by law.

In addition to the food and beverage services provided above, Concessionaire is also required to provide such service from on-course carts, at the sole cost to the Concessionaire, unless the Parks & Recreation Director or his designee and Concessionaire mutually agree that they are not needed. The food and beverages served must be of high quality. The Park & Recreation Director or his designee will approve of cart appearance, manner of operation, and

location, subject also to Concessionaire's maintenance, cleaning, or custodial duties in such areas adjacent to the use of such cart. Hours of operation for the restaurant and on-course cart, must be posted in locations visible to the public.

Golf course employees at the Executive Golf Course will handle the sale of food and beverage items for the concessionaire, with the concessionaire paying an agreed upon fee.

8. Exclusive Right. Concessionaire shall have the exclusive right regarding all food and beverage concessions at the golf courses and no other entity or person shall be allowed to sell or give away any food or beverage without the prior written consent of the Concessionaire. This does not prohibit an individual from bringing his own non-alcoholic beverage or snacks for his own personal use onto the course. Alcoholic beverages are prohibited unless furnished by the Concessionaire. The Park & Recreation Director or his designee may, in his/her discretion, prohibit alcoholic beverages outside the clubhouse at such times as he/she may determine. Concessionaire agrees to work closely with non-profit organizations on an individual basis to provide catering during golf tournaments at the golf course if so requested by the Golf Professional.

9. Utilities. The Concessionaire shall pay two thirds (2/3) of the gas, sewer & water charges at Meadowbrook Golf Course. The Concessionaire shall pay all of the electrical charges for his operations. No utility charge shall be assessed to the Concessionaire at the Executive Course.

10. Cable TV. Concessionaire shall be responsible for providing their own cable television service.

11. Telephone. Concessionaire shall be responsible for providing their own telephone service.

12. Signs. Concessionaire shall place no signs on the exterior of the building premises, except those signs approved by the City of Rapid City as to size and location prior to the execution of this agreement.

13. Public Accounting. The Concessionaire agrees to make available to the Parks and Recreation Director or his designee its financial transactions within thirty (30) days of any written request by the Director. The Concessionaire agrees to make available to the Parks and Recreation Director or his designee its financial transactions within sixty (60) days after the close

of its operating year. Such accounting shall be in the form of a report of income and expense and balance sheet of its assets and liabilities.

14. Insurance. Concessionaire shall at all times during the term of this lease maintain insurance with a One Million Dollar (\$1,000,000.00) limit or equivalent for premises operations and product liability, including liquor liability. Concessionaire shall furnish the City with a certificate of insurance which certificate shall be attached to this lease along with a statement generally describing the coverage therein contained. The said insurance shall include the City as an additional insured.

15. Hold Harmless. Concessionaire shall indemnify and hold the City harmless from any and all damages, claims, suits, demands, or asserted obligations for injuries or damages arising out of the use or occupation of the premises or the operation of the business described in this agreement.

16. Waiver of Subrogation. Each of the parties hereby waives and relinquishes any and all rights which it may have against the other party on account of any claims for damages resulting from a loss to property owned by said party caused by the alleged negligence of the other party or its agents or employees or persons on the within described premises by permission of such other party, whether or not the property of such other party is insured against such loss in the amount of its full insurable value. Each of the parties hereto will use good faith efforts to procure from the carrier of the insurance on its property an endorsement on all its policies of insurance in substantially the following language:

It is hereby stipulated that this insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein or attached thereby.

17. Non-Discrimination. Concessionaire shall provide food service to the general public without discrimination as to race, color, creed, national origin, disability, age, or sex. Concessionaire agrees that in the operation and use of the premises, he will not on the grounds of race, color, creed, national origin, disability, age, or sex, discriminate or permit discrimination against any person or group of persons in any manner. The prices charged by Concessionaire shall be reasonable and shall not be in excess of prices prevailing elsewhere for the same kind and quality of service.

18. Binding Upon Heirs, Successors, and Assigns. This agreement is binding upon the parties, their heirs, successors, administrators, executors and assigns.

19. Assignment and Sublease. Concessionaire agrees not to assign, lease, or sublease the premises as described in paragraph 3 of this Lease, or any part thereof, without the expressed written permission of the City.

20. Fixtures. The city will provide the following equipment and fixtures:

Meadowbrook

17 tables

60 interior chairs

11 bar stools

6 deck tables

22 deck chairs

11 storage racks

1 ice machine

Executive

1 36" gas griddle

1 three-compartment sink

Concessionaire shall be responsible for providing all other equipment for use in any of the concession areas granted by this agreement. All fixtures placed on the premises by the Concessionaire shall remain the property of the Concessionaire; improvements to the property, including wiring and structural improvements, shall become the property of the City.

21. Surrender of Possession. At the expiration of the tenancy hereunder, whether by lapse of time or otherwise, Concessionaire shall quit and surrender the leased premises in good condition and repair, reasonable wear and tear excepted.

In the event Concessionaire remains in possession of the leased premises after the expiration of the tenancy hereunder and without the execution of a new lease, he shall be deemed to be occupying said premises as Lessee from month to month subject to all other conditions, provisions, and obligations of this lease insofar as the same are applicable to a month to month tenancy.

22. Default. If either party to this lease should be in default under any provision of this lease and such default shall continue to exist after receipt by the defaulting party of its (30) days' written notice, except for nonpayment of rent which shall be a ten (10) day notice, the other party may terminate this lease and if the City be the defaulting party, the Concessionaire

may surrender possession of the leased premises to the City and if the Concessionaire be the defaulting party, the City may take possession of the leased premises. Such termination of this lease shall be without prejudice to the right of recovering damages against the defaulting party for breach of this lease.

23. Termination. The lease granted by this agreement shall be terminable for cause by either party upon thirty (30) days' written notice. It is specifically agreed that failure to operate the food and beverage concession for a period contrary to the minimum hours of operation required, shall be grounds for termination without notice of default.

24. Damage or Destruction of Premises. If the premises are damaged or destroyed by fire or other causes, the City shall be under no obligation to repair or replace. Should the City reconstruct the damaged or destroyed premises within two (2) years of the execution of this lease and agree to again lease the premises, Concessionaire shall be provided the right of first refusal on a new lease. If the premises become unusable for the use intended for a period to exceed thirty (30) days, this lease or any renewal thereof shall terminate unless otherwise agreed to by the parties.

25. Alterations, Repairs, or Improvements. Concessionaire shall not make any alterations, repairs, or improvements to the structure or the area immediately surrounding said structure without obtaining the prior written consent of the Parks & Recreation Director of the City of Rapid City, or his designee. Requests to make any alterations, repairs, or adjustments shall be in writing. Any alterations or improvements shall become the property of the City.

26. Liens. The Concessionaire shall not allow the premises to become subject to liens of any kind, and the attachment of a lien to the premises shall be grounds for termination.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF RAPID CITY OF RAPID CITY

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Finance Officer

(SEAL)

CONCESSIONAIRE

\_\_\_\_\_  
Dick Ragels

\_\_\_\_\_  
Waneta Ragels

State of South Dakota            )  
  ) SS.  
County of Pennington            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned officer, personally appeared Lynne Laird, who acknowledged herself to be the Secretary of the Rapid City Racers Swim Club, Inc., a corporation, and that she as such Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Rapid City Racers Swim Club, Inc. by herself as Secretary.

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

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

My Commission Expires:

(SEAL)

State of South Dakota            )  
  ) SS.  
County of Pennington            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned officer, personally appeared Craig Pfeifle, who acknowledged himself to be the President of the Rapid City Racers Swim Club, Inc., a corporation, 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 Rapid City Racers Swim Club, Inc. by himself as President.

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

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

My Commission Expires:

(SEAL)