

**WATER SERVICE AGREEMENT
BETWEEN THE CITY OF RAPID CITY
AND THE CITY OF BOX ELDER**

THIS AGREEMENT is made this ____ day of _____, 2015, by and between the City of Rapid City (“Rapid City”), a municipal corporation organized under the laws of the State of South Dakota, and the City of Box Elder (“Box Elder”), a municipal corporation organized under the laws of the State of South Dakota.

WHEREAS, Rapid City and Box Elder believe it is in the best interests of both parties to cooperate regionally in the development and use of clean, safe water; and

WHEREAS Rapid City and Box Elder can mutually benefit from an agreement whereby Rapid City agrees to sell water to Box Elder for a fixed rate;

WHEREAS Rapid City has provided water to Box Elder in the past on a short term or emergency basis; and

WHEREAS, the parties desire to work on a mutually cooperative basis and to enter into this agreement pursuant to the terms and conditions as set forth herein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

I.

Rapid City agrees to sell and deliver clean, safe water to Box Elder, subject to the conditions stated hereinafter.

II.

Box Elder agrees to purchase water from Rapid City for use of its customers within the City of Box Elder, subject to the conditions stated hereinafter. It is not the intent of this agreement to provide Box Elder with a permanent water source, but only for temporary shortages, emergencies, or to help provide a bridge while Box Elder obtains additional water sources to meet its demand.

III.

It is specifically understood by the parties that there shall be no minimum or maximum usage requirements of Box Elder.

IV.

The water shall be delivered by Rapid City to Box Elder at such places as the Public Works Directors of Rapid City and Box Elder mutually agree.

V.

Box Elder agrees to pay Rapid City, as consideration for water supplied to Box Elder in accordance herewith, the then current wholesale rate as found in Chapter 13.08 of the Rapid City Municipal Code. Additionally, Box Elder agrees to pay a monthly meter charge equal to the commercial and industrial rate provided in the Rapid City Municipal Code. In the event water is needed by Box Elder, Box Elder shall contact Rapid City's Public Works Director for authorization. Box Elder shall then read and document the meter before water flow is commenced. Either public works department may then turn the water valve on to commence water usage by Box Elder. Upon determining that water is no longer needed by Box Elder, then either public work's department may close the valve. The meter will then be read again and the amount of usage shall be provided to Rapid City for billing. Box Elder shall pay for usage within 30 days of billing by Rapid City.

VI.

Box Elder agrees that in the event it shall become necessary for Rapid City to impose water restrictions during the time Box Elder is drawing water, then Box Elder shall also impose restrictions on the use of water by its customers at least equal to those imposed by Rapid City on its customers.

VII.

For the protection of the health of all consumers supplied with water from the water system of Rapid City, Rapid City and Box Elder agree to guard carefully against all forms of contamination. If at any time contamination should occur, the area or areas affected shall immediately be shut off and isolated and remain so until such conditions shall have been abated and the water declared again safe and fit for human consumption by the properly constituted governmental health agencies having jurisdiction of the areas affected.

VIII.

In the event of an emergency, Rapid City and Box Elder agree to cooperate and take such steps as are necessary and appropriate to address the issue. Rapid City shall not discriminate against Box Elder and its customers. Where practical, Rapid City shall give at least twenty-four (24) hours notice prior to the discontinuance of any service. The parties agree to work together to ensure that all water services used by Box Elder and Rapid City are protected from any type of contamination, sabotage, vandalism, or any other type of threat. Each party agrees to notify the other of any threats to, or problems with, the other's water system and/or water supply that such party may become aware of.

IX.

No failure or delay in the performance of this Agreement by either party shall be deemed to be a breach thereof when such failure or delay is occasioned by, or due to, any Acts of God, strikes, lockouts, wars, riots, epidemics, explosions, sabotage, or any other similar cause not within the control of the party claiming suspension.

X.

The term of this agreement shall be five (5) years, commencing February 1, 2015. This Agreement shall automatically be renewed for successive one (1) year terms, unless either party shall give the other six (6) months written notice of intent not to renew.

XI.

In order to facilitate communication, receptivity, and responsiveness between Rapid City and Box Elder, and to promote efficient and effective problem solving between the parties, the parties hereby authorize their respective Public Works Superintendents or their designees to take temporary measures to release water to Box Elder without prior authorization from the either parties' Common Council when necessary to address water shortage concerns as defined herein. Any such temporary measure that is anticipated to occur continually longer than thirty (30) days shall require Council approval from both cities to extend beyond thirty (30) days.

XII.

In the event of a request for service by the Superintendent of Public Works of Box Elder for water that may exceed 30 continuous days, then in that event, any extended need shall be approved by the City Council of each City.

XIII.

Box Elder agrees to pay all amounts due for water used as evidenced by the meter, regardless of limits on Box Elder's Public Works Superintendent's ability to make purchases without approval of the Box Elder Common Council.

XIV.

The parties agree to save and hold each other harmless and indemnify the other from any and all damages resulting from their negligence concerning matters contemplated herein.

XV.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF RAPID CITY

CITY OF BOX ELDER

Mayor

Mayor

ATTEST:

ATTEST:

Finance Officer

Finance Officer

(SEAL)

(SEAL)