

**LEASE AGREEMENT BETWEEN CITY OF RAPID CITY
AND BLACK HILLS LACROSSE ASSOCIATION**

For and in consideration of the mutual promises and agreements contained herein, the City of Rapid City (City), a municipal corporation located at 515 West Boulevard, Rapid City, South Dakota, 57701, agrees to lease to Black Hills Lacrosse Association (BHLA), a South Dakota nonprofit corporation whose address is 4802 Heights Drive, Rapid City, South Dakota 57702, a specified area to operate a city lacrosse league, subject to the following terms and conditions:

1. Consideration. The City hereby leases to Black Hills Lacrosse the below described 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, admission of a lacrosse league open to the citizens of the City, responsibility for mowing of the fields, and responsibility for all electric 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. The term of this Agreement is from _____, _____, 2017, to December 31, 2017.

3. Premises. The Premises leased by the City to Black Hills Lacrosse are generally described as 12.65 acres of turf area formerly used as soccer fields located in the "Star of the West" Sports Complex (*See Exhibit A*) and are more specifically described as follows:

A portion of Lot Four (4) of Dairyland Subdivision, in Section Five (5), Township One North (T1N), Range Eight East (R8E), Black Hills Meridian, Rapid City, Pennington County, South Dakota

("the Premises").

4. Surrender of Premises. BHLA agrees to surrender the Premises, or any part thereof, in the event it is necessary for expansion of public park facilities. BHLA further agrees to abandon the Premises, or any part thereof, in the event the demand is made by the United States government. BHLA further agrees to abandon the Premises, or any part thereof, whenever ordered to do so by a court of law or whenever the City terminates this Agreement or is ordered to terminate this Agreement by an order of any Court.

5. Use by Black Hills Lacrosse. BHLA shall have priority use of the Premises during the lease period, subject to the terms of this Agreement, for the purpose of operating a city lacrosse league.

6. Use by the City. BHLA agrees that the City may use the Premises when the same is not required for use by BHLA, and such use by the City shall be consistent with the normal usage of the 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.

7. City Maintenance Obligations. 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 lacrosse complex irrigation system, including time and duration of any irrigation, and City will make necessary repairs to irrigation system components up to and including zone valves.

City shall be responsible for winterization and spring start up of the irrigation system. BHLA will contact City by March 1st of each year to coordinate the spring start up of the irrigation system at the Premises and shall designate an individual from BHLA to walk through the Premises at spring start up with Parks Maintenance staff to identify any necessary repairs to the irrigation system. BHLA 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. BHLA will be responsible for loss or damage to Radio Controller.

8. BHLA Maintenance Obligations. BHLA agrees to maintain the Premises under the authority of the Parks and Recreation Director or his/her designee. The Premises and all improvements shall remain in a state of high quality. BHLA shall be responsible for all maintenance of structures, fences, and signage including the on-going maintenance of any permanent and temporary restroom facilities. BHLA agrees to repair or replace any property damaged willfully by BHLA members or invitees which occurs while the Premises are in use by BHLA. BHLA 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. BHLA agrees to provide its own trash and recycling receptacles for use at the Premises. BHLA also agrees to place all collected trash, recyclables, debris, and waste in a designated location for removal by the City or Rapid City. BHLA agrees to promote and encourage recycling throughout the Premises.

BHLA shall be responsible for all mowing and landscape maintenance throughout the entire Premises, including mowing, fertilizing, weed control of playing fields and non-playing field areas, fence lines, and landscape beds. Playing fields shall be mowed on a regular basis during the lacrosse 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. BHLA agrees to be responsible for the preparation of the playing fields prior to all scheduled game days. BHLA will be responsible for repairs to lateral irrigation lines and irrigation heads per the City of Rapid City Irrigation Standards, 2014.

If BHLA fails to fulfill its responsibilities under this Section, this failure constitutes a substantial failure and 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 Premises,

including the fields, to be maintained in accordance with this Section and may charge BHLA 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 BHLA of its intent to perform the maintenance; and (3) BHLA fails to mow or perform the maintenance within three (3) days of receipt of the notice. If City charges BHLA for City's cost to perform this work, BHLA agrees to pay any such charges. City may perform this mowing and/or maintenance itself, or it may arrange for a private contractor to do so: BHLA's obligations to pay for the cost under this Section are not dependent upon who performs the mowing/maintenance.

9. Construction. 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 the City for such improvements. BHLA 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 by either party as part of this Agreement will be owned by the City.

10. Expense. City shall assume no expenses as a result of this Agreement or any of the operations of BHLA except for those expenses generated as a result of City's own use as referenced above or City's obligations as described in Section 8. BHLA 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. BHLA agrees that the electric utilities will be metered in the name of and billed directly to BHLA and that all expenses incurred by it shall be paid within thirty (30) days of due date.

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

11. Termination. This Agreement may be terminated by either party giving notice of its intent to terminate on or before October 15th of any year, which termination will be effective as of January 1st immediately following or on a later date provided in the notice of intent to terminate.

If BHLA dissolves, becomes insolvent or otherwise unable to fulfill the terms of this Agreement, or abandons the use of the Premises for one lacrosse season, this Agreement shall be terminated and BHLA 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 sixty (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 with 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.

12. Liability. BHLA 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 BHLA or its agents or employees or any other person using the Premises. BHLA 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, BHLA 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 BHLA 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 BHLA of any additional requirements for insurance required by this Section.

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

14. Concession, Advertising, and Naming Rights. BHLA shall have the right to operate concessions for the sale of beverages, food, programs, and other items usually sold in the public parks. BHLA 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 BHLA. BHLA also agrees to be responsible for cleaning and maintain the concession area, including restrooms.

BHLA and City shall jointly hold all naming rights for the facilities and Premises. 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.

15. 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.

16. Change of Contacts and Officers. BHLA agrees to notify the Director of Parks and Recreation of any changes in the officers of BHLA 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 BHLA.

17. Non-Discrimination. BHLA 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. BHLA further agrees to comply with any requirements made to enforce the foregoing which may be required of or by the City.

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

19. 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.

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

21. 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 Seventh Judicial Circuit, Pennington County, South Dakota.

Dated this _____ day of _____, 2017

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer
(SEAL)

State of South Dakota)

SS.

County of Pennington)

On this the _____ day of _____, 2017, before me, the undersigned officer, personally appeared Steve Allender 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, execute 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)

Dated this _____ day of _____, 2017

BLACK HILLS LACROSSE ASSOCIATION

By _____
Its _____

State of South Dakota)

SS.

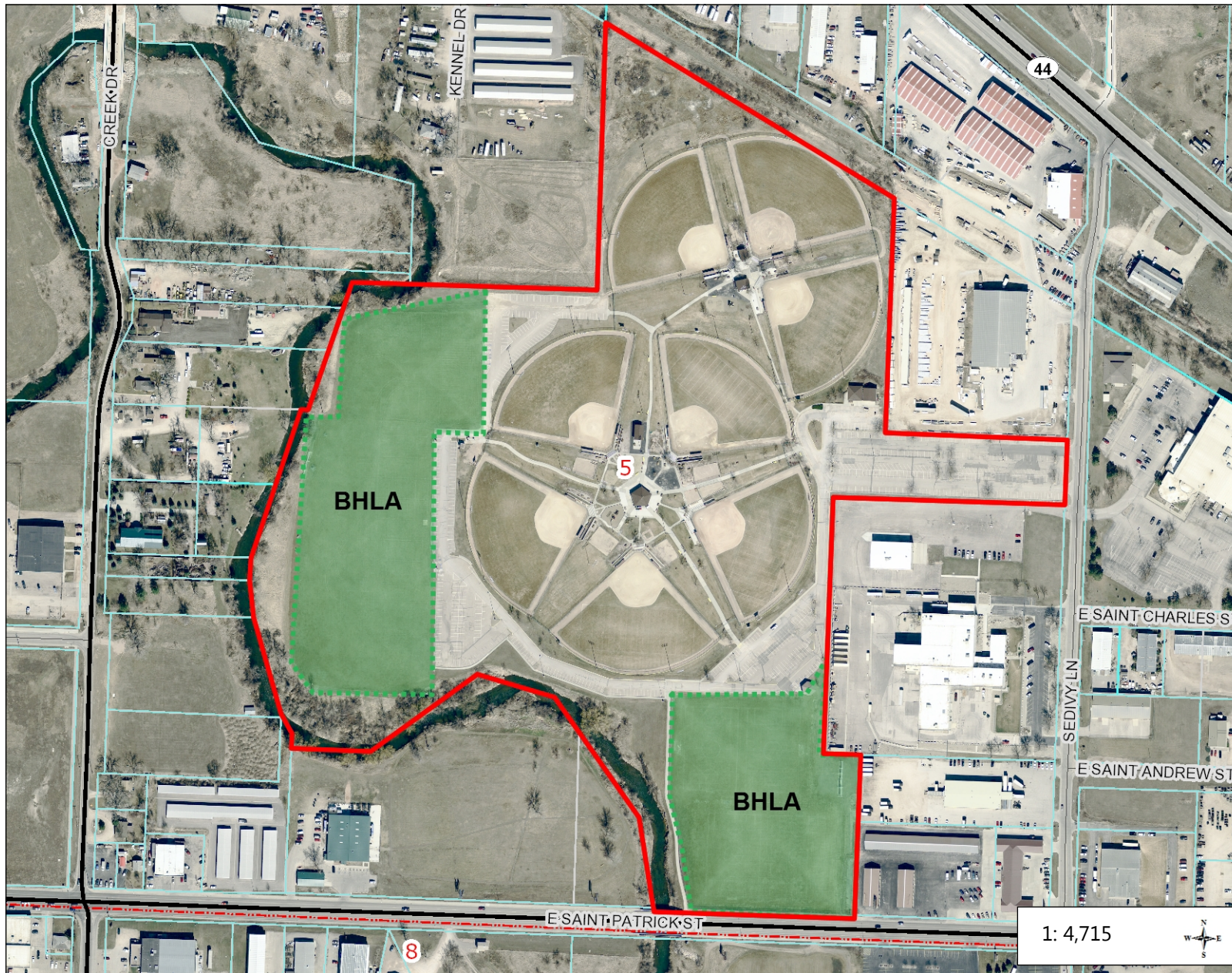
County of Pennington)

On this the _____ day of _____, 2017, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of Black Hills Lacrosse Association, a South Dakota nonprofit corporation, and that he/she as such _____, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing the name of the Black Hills Lacrosse Association by himself/herself as _____.

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

Notary Public, South Dakota
My Commission Expires: _____

(SEAL)



Legend

Roads

- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway
- Not yet coded

Section Lines 0-25k

- 0
- 7

Tax Parcels

Lot Lines

- <Null>
- Lot Line
- Parcel Line

Map Notes:

Black Hills Lacrosse Leased Premises

785.9 0 392.95 785.9 Feet

NAD_1983_2011_StatePlane_South_Dakota_South_FIPS_4002_Ft_US
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