

MEMORANDUM OF AGREEMENT BETWEEN
THE CITY OF RAPID CITY AND
THE RUSHMORE LIONS CLUB CHARITIES, INC.

This Memorandum of Agreement (the "Agreement") is between the City of Rapid City, South Dakota, a municipal corporation, whose address is 300 Sixth Street, Rapid City, South Dakota 57701 (hereinafter referred to as the "City"), and Rushmore Lions Club Charities, Inc., a South Dakota non-profit corporation, whose address is P.O. Box 3330, Rapid City, South Dakota 57709 (hereinafter referred to as the "Rushmore Lions").

PURPOSE

The purpose of this Agreement is to set forth the terms and conditions under which the City and the Rushmore Lions shall jointly operate and maintain the RUSHMORE LIONS NATURE PARK located in west Rapid City, adjacent to Rapid Creek and west of Chapel Lane. The property owned by the City is legally described as Lots 5 and 6 of Block 1, Lots 3 thru 19 of Block 2, Lots 1A, 1B, 2A, 2B, 3A, 3B, P, P-1, 4-11, 12A, 12B, 13A, 13B, 13C, 14B, and 15-17 of Block 3 Block 4, and the right-of-way located within Blocks 2, 3, and 4; and the property owned by the Rushmore Lions is legally described as Lot 14A of Block 3; all located in Section 8, Township 1 North, Range 7 East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, consisting of approximately 10.58 acres. The real estate owned by the City was purchased after the flood of 1972 for the purpose of creating open space for flood protection. The property lies within the Rapid Creek drainage area.

The Rapid City Parks and Recreation Advisory Board has previously approved the park plan submitted by the Rushmore Lions (the "Plan") as set forth in that certain Memorandum dated March 20, 2008, a copy of which is attached hereto and incorporated by reference. The parties recognize that the Rushmore Lions is a service organization, comprised of volunteers only, and therefore the primary contribution which the Rushmore Lions will make to the continued operation and maintenance of the RUSHMORE LIONS NATURE PARK will be volunteer labor by its members.

AGREEMENT

To provide for the continued operation and maintenance and for future improvements to the RUSHMORE LIONS NATURE PARK, the City and the Rushmore Lions agree as follows:

1. The Rushmore Lions, in conjunction with the City, will contribute to the operation, maintenance and future improvements substantially in accordance with the Plan, as now exists or as may be amended in the future.
2. The RUSHMORE LIONS NATURE PARK will continue to be used for passive recreational use, such as, walking or jogging on trails, wildlife or bird or nature watching, fishing, picnicking, and enjoying nature. Future improvements will be intended to enhance the park by adding amenities, such as additional gravel trails, and increasing accessibility to and throughout the site and to Rapid Creek for fishing and viewing opportunities.
3. Given the efforts of the Rushmore Lions in helping to plan, develop and maintain this public park, the City has agreed that the park will continue to be known as the RUSHMORE LIONS NATURE PARK.
4. The park will be open to the public at times prescribed by the Rapid City Department of Parks and Recreation.
5. Except for maintenance and future construction initiated and undertaken by the City, the Rushmore Lions will provide money, materials, and labor for maintenance and construction of future planned features. Any substantial change to the Plan will be agreed upon in writing by the parties. The monetary and material obligation of the Rushmore Lions to any such changes will be subject to the limitations as set forth hereinafter. Any portion of the project paid for with tax revenue shall comply with applicable bid laws.
6. The City and the Rushmore Lions agree to be jointly responsible for routine maintenance to the park. Assessment of routine maintenance needs will be a joint responsibility of the parties on an annual basis. The parties will meet prior to May 1 of each year to develop and agree upon a plan for the joint maintenance for the Park. Maintenance will be done in a timely fashion. Recognizing that the labor provided by the Rushmore Lions is voluntary in nature, should an emergency situation arise resulting from vandalism or acts of nature which may require immediate attention, the City agrees to contact the Rushmore Lions and the Rushmore Lions will use its

best efforts in obtaining the necessary volunteer labor to help in alleviating the emergency situation.

7. Notwithstanding any other provision contained within this Agreement, the Rushmore Lions shall not be required to contribute more than \$1,000.00 in cash and/or materials toward annual maintenance of and annual costs associated with future improvements to the park. However, this does not restrict the Rushmore Lions from additional contributions of money or materials; and the Rushmore Lions may, but shall not be required, to obtain grants to be used for the operation, maintenance of, or future improvements to the park and areas of access to the park.

8. The Rushmore Lions will be responsible for general clean-up of the park for the months of May through September of each year. Clean-up will be at least once each month. The Rushmore Lions and the City will coordinate the times and dates for the clean-up.. The City shall at all time provide trash bags, containers and dumpsters for the removal of garbage and debris from the park.

9. The City will be responsible for all mowing within the park and the areas surrounding the park. In addition, the City will be responsible for snow removal on the sidewalks and trails and general upkeep. The City also will be responsible for maintenance of the areas surrounding the park, and all police and fire protection within the park.

10. Any future improvements will be in accordance with city, state, and federal rules and regulations and will be constructed only after written consent is obtained from the City. All improvements will be owned by the City.

11. If the Rushmore Lions hires a contractor or landscaper to help with maintenance or future improvements to the park, the contractor or landscaper will from time to time keep the City's Parks and Recreation Department informed as to the progress of the maintenance or future construction. Future improvement construction projects shall be considered a City project and all federal, state and city laws and ordinances shall be followed.

12. The Rushmore Lions agree to defend, indemnify and save harmless the City from any and all claims, damages, costs, and expenses, including reasonable attorney fees, arising out of or in connection with the negligent conduct by any member of the Rushmore Lions.

13. If the City deems the park is not in compliance with the Plan or is not up to City beautification standards, the City shall contact the Rushmore Lions and together the parties will develop a procedure to bring the park into compliance with the Plan or up to the beautification standards of the City. Failure of the Rushmore Lions to bring the Park into compliance with the Plan or beautification standards within a reasonable time after the procedure is agreed upon may result in the termination of the Agreement. City will give the Rushmore Lions a 30 day written notice of noncompliance and opportunity to cure prior to taking any adverse action. It is agreed that the RUSHMORE LIONS NATURE PARK is considered to be a City recreation facility and as such, the City will have the authority to determine the use of the park and when to open or close the park.

14. The initial term of this Agreement shall be for five years from the date set forth below. Thereafter this Agreement shall automatically renew for an additional five year term, unless the parties agree, prior to the expiration of the initial term, to a different renewal term. Either party has the right to terminate this Agreement upon 90 days written notice to the addresses as set forth above.

IN WITNESS WHEREOF, the parties have signed this Agreement this ___ day of April, 2016.

CITY OF RAPID CITY,
SOUTH DAKOTA

By: _____
Steve Allender, Mayor

ATTEST:

By: _____
Finance Officer

(SEAL)

RUSHMORE LIONS CLUB
CHARITIES, INC.

By: _____
Scott Jensen
Its: President

ATTEST:

By: _____
William Carey
Its: Secretary