

Prepared By:

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## **SNOWMOBILE TRAIL ACCESS EASEMENT AGREEMENT**

This Snowmobile Trail Access Easement Agreement ("Easement") is made and entered in to on the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of Deadwood, SD of 108 Sherman St. Deadwood, SD 57732 the City of Lead, SD of 801 West Main St. Lead, SD 57754 and the City of Central City SD, of 214 Central Main St. Central City, SD 57754 as joint property owners ("Grantor"), and the State of South Dakota, for the use and benefit of the Department of Game, Fish and Parks, of 523 E. Capitol Avenue, Pierre, SD 57501 ("Grantee")

### **WITNESSETH:**

WHEREAS, Grantor is the owner of certain real estate which is more fully described as follows, to wit:

Plat of the municipality tract. Being portions of Bellville Lode, M.S. 1763, Hartford Fraction No. 2, Divide No. 5A, Hartford Frac., Wild Goose and Dubble Triangle Lodes, M.S. 1753, Divide No. 1 and Divide No. 4 Lodes, M.S. 1574 and all of Divide, Divide No. 2 and Divide No. 3 Lodes, M.S. 1574, Illinois No. 2 and Woodstock Lodes, M.S. 1452, Rock and Elgin Lodes, M.S. 1601, located in the NE ¼ of Section 15 and W ½ of Section 14, T4N, R3E, B.H.M., Lawrence County, South Dakota. ("PROPERTY"); and,

WHEREAS, pursuant to SDCL § 41-2-23, Grantee with the permission of the Game, Fish and Parks Commission is authorized to expend funds for access to recreation on any land, public or private within the state, provided, however, that any land so improved shall be open to reasonable use by the public and;

WHEREAS, Grantee desires to construct and maintain a snowmobile trail ("SNOWMOBILE TRAIL") on the PROPERTY for public use and;

WHEREAS, Grantor and Grantee desire to ensure that the PROPERTY will remain available for public use as a SNOWMOBILE TRAIL in the event of ownership transfer and;

WHEREAS, Grantors desire to sell and Grantee desires to purchase a thirty foot (30') wide easement on, over and across the PROPERTY to be used by Grantee to provide the

general public with access to the SNOWMOBILE TRAIL in Lawrence County, South Dakota, for use, and in conjunction therewith, enable both Grantor and Grantee to construct and maintain certain improvements on the PROPERTY to accommodate access and utilization of the PROPERTY by the Grantee and members of the general public for snowmobile trail access; and

WHEREAS, in order to facilitate the utilization of the PROPERTY for the uses contemplated by this agreement, Grantor and Grantee shall maintain the PROPERTY pursuant to the maintenance responsibilities as defined in this agreement;

NOW, THEREFORE, in consideration of the covenants contained herein declare, covenant, convey, and agree as follows:

- 1) As consideration for this easement, Grantee agrees to pay Grantor the sum of One and 00/100 Dollar (\$1.00) for this easement.
- 2) The term of this easement shall be for a period of thirty (30) years commencing from and after the date of execution of this agreement by the parties unless sooner terminated as provided for herein. Grantor reserves the right to terminate this agreement at any time with 120 days notice. This EASEMENT shall automatically terminate in the event the PROPERTY ceases to be utilized as a SNOWMOBILE TRAIL
- 3) Grantor hereby grants to Grantee a thirty foot (30') wide easement on, over and across the PROPERTY, indicated as "EASEMENT AREA" on Exhibit A which is attached hereto and made a part hereof by this reference (hereinafter referred to as "EASEMENT AREA") for access and use by Grantee and members of the general public as a public SNOWMOBILE TRAIL and related uses and in conjunction herewith, hereby authorizes Grantee to have full and unrestricted access to the EASEMENT AREA at any time in order to construct and maintain a snowmobile trail and related improvements on the EASEMENT AREA as may from time to time be approved in the annual budget established by the SD Legislature.
- 4) Grantor, its successors and assigns, shall not interfere with the public's use of the EASEMENT AREA for snowmobile trail access nor shall Grantor, their successors and assigns, build any structure upon or otherwise obstruct or prevent the public's use of the EASEMENT AREA for snowmobile trail access. Grantee and Grantor, its successors and assigns, have agreed to the following in connection with the construction and maintenance of the SNOWMOBILE TRAIL on the EASEMENT AREA:
  - i) Grantee agrees to:
    - (a) Design, administer, contract and inspect the construction of the SNOWMOBILE TRAIL on the EASEMENT AREA in such a manner as not to interfere with the flow of surface water through the area or otherwise change the surrounding environment from its current state.
    - (b) Construct the SNOWMOBILE TRAIL to specifications determined by the Grantee and to insure that any improvements conform to and meet all applicable state and federal regulations, including environmental rules and

regulations. Should any improvements conflict with any state or federal requirements, Grantee shall cure such defaults promptly at its own expense.

(c) Maintain said SNOWMOBILE TRAIL, in a reasonably safe and functional condition for the term of this Easement. Grantee's maintenance responsibilities shall include:

1. All major maintenance and repairs required for the on-going operation of the SNOWMOBILE TRAIL.
2. Installing and maintaining all signs for the SNOWMOBILE TRAIL.

(e) Grantee does not, by this Easement, assume any responsibility or liability by granting free public access for outdoor recreational purposes, except as provided by SDCL 20-9.

ii) Grantor, including his successors and assigns, agrees to:

- (a) Provide Grantee sufficient space, at no cost, for the construction, operation, maintenance and public use of the SNOWMOBILE TRAIL and its associated structures.
- (b) Provide open and free access to the public to the EASEMENT AREA for its use as a SNOWMOBILE TRAIL.
- (c) Provide open and free access to Grantee to the EASEMENT AREA for the operation, repairs and obligations related to the SNOWMOBILE TRAIL.
- (d) Submit to Grantee for its prior review and approval any Grantor development or land-use proposal that may negatively affect the use of the EASEMENT AREA as a SNOWMOBILE TRAIL.
- (e) Repair, at Grantor's expense, any disturbance or damage to the SNOWMOBILE TRAIL, the above mentioned improvements provided by the Grantee and related components that may result from the activities of the Grantor, such repairs to be completed within a reasonable period of time and in a manner approved by both parties to this agreement. Should Grantor fail or refuse to make such repairs as agreed by the parties, Grantee may make such repairs and recover all costs and expenses incurred in so doing from Grantor.

5) The easement granted herein is limited to Grantee and members of the general public for the purposes herein described. Grantee shall not sell, assign or otherwise transfer this easement or any rights hereunder to any third party, nor shall Grantee transfer to any person or entity this easement or any right to use the EASEMENT AREA for purposes other than provided for in this agreement, without the prior written permission of the Grantor, its successors or assigns.

- 6) Grantor warrants and represents that it holds merchantable title to the above described real property and has the full and complete authority to enter in to this agreement for the purposes herein described.
- 7) Grantee shall comply with all applicable laws and regulations in connection with Grantee's use of the Easement Area.
- 8) This easement shall run with the land and be binding upon and inure the benefit of the parties hereto, their successors and assigns. This easement may not be amended except by express written agreement of the parties hereto, their successors and assigns.
- 9) The laws of the State of South Dakota shall govern the validity, performance and enforcement of the terms and conditions contained in this Agreement. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Fourth Judicial Circuit, Lawrence County, South Dakota.
- 10) The easement granted herein shall remain in full force and effect until expiration of its term or such time as it may be terminated by written agreement of the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Snowmobile trail Access Easement Agreement this \_\_\_\_ day of \_\_\_\_\_, 2023.

GRANTOR:

CITY OF DEADWOOD

BY: \_\_\_\_\_  
Mayor

CITY OF LEAD

BY: \_\_\_\_\_  
Mayor

CITY OF CENTRAL CITY

BY: \_\_\_\_\_  
Chairman

GRANTEE:

STATE OF SOUTH DAKOTA, DEPARTMENT  
OF GAME, FISH AND PARKS

BY: \_\_\_\_\_  
Jeffrey A. VanMeeteren  
Director, Division of Parks and Recreation

**[END OF AGREEMENT TEXT]**

[illegible]

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, Mayor of the City of Deadwood, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(SEAL)

Notary Public, State of South Dakota

My commission expires: \_\_\_\_\_.

[illegible]

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, Mayor of the City of Lead, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(SEAL)

Notary Public, State of South Dakota

My commission expires: \_\_\_\_\_.

[illegible]

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, Chairman of the City of Central City, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(SEAL)

Notary Public, State of South Dakota

My commission expires: \_\_\_\_\_.

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF HUGHES )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, \_\_\_\_\_, the undersigned officer, personally appeared Jeffrey A. VanMeeteren, who acknowledged himself to be the Director of the Division of Parks and Recreation of the South Dakota Department of Game, Fish and Parks, and that he, in said capacity and being authorized so to do, executed the foregoing instrument on behalf of the South Dakota Department of Game, Fish and Parks for the purposes therein contained.

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

(SEAL)

Notary Public, State of South Dakota

My Commission Expires: \_\_\_\_\_.

Exhibit A

