

**SECOND AMENDMENT TO
WATER SERVICE AGREEMENT**

This Second Amendment to Water Service Agreement (“Amendment”) between Three Peaks Water Association, LLC, a South Dakota limited liability company (the “Water Association”), and the City of Whitewood, a municipal corporation organized under the laws of the State of South Dakota (the “City”) is dated February 27, 2024.

Background:

A. The Water Association (as successor to Spearfish Mountain Ranch LLC) and the City are parties to that certain Amended and Restated Spearfish Mountain Ranch LLC Water Service Agreement dated January 19, 2023 as amended by First Amendment to and Assignment of Water Service Agreement dated December 18, 2023 (collectively, the “Water Service Agreement”) under which the City agreed to provide water to the property described in the Water Service Agreement under the terms and conditions stated in the Water Service Agreement.

B. The Water Association and the City desire to modify the Water Service Agreement as hereinafter set forth.

Agreement:

In consideration of the mutual covenants and promises contained in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **Water Taps.** Notwithstanding anything in the Water Service Agreement to the contrary, the Water Association shall be entitled to a minimum of one hundred thirty three (133) water connections within the service area covered by the Water Service Agreement.

2. **Binding Effect.** This Amendment is binding on and will inure to the benefit of the parties hereto and their respective successors and assigns.

5. **Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the state of South Dakota.

6. **Severability.** In the event any section, or any sentence within any section, is declared by a court of competent jurisdiction to be void or unenforceable, such sentence or section shall be deemed severed from the remainder of this Amendment and the balance of this Amendment shall remain in full force and effect.

7. **Counterparts; Electronic Signatures.** This Amendment may be executed in one or more counterparts, and all so executed shall constitute one agreement, binding on all the parties hereto, even though all parties are not signatories to the original or the same counterpart. Any counterpart of this Amendment that has attached to it separate signature pages, which altogether contain the signatures of all parties, shall for all purposes be deemed a fully executed instrument. A copy of this Amendment sent by executed by pdf or by electronic signature such as, by way of

example only, DocuSign or Adobe Sign, shall be deemed an original for all purposes and the electronic signature of a party shall have the same effect as an original signature.

[The signature page follows]

Signed:

ASSOCIATION:

Three Peaks Water Association, LLC,
a South Dakota limited liability company

By: Gerard J. Keating
Gerard J. Keating (Feb 27, 2024 15:52 MST)
Gerard J. Keating
President, Board of Directors

CITY:

CITY OF WHITEWOOD

By: Mitch Haemers
Mayor

ATTEST

By: [Signature]
City Finance Officer






2nd Amendment to Water Service Agreement

Final Audit Report

2024-02-27

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"2nd Amendment to Water Service Agreement" History

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