

**AMENDMENT TO
AGREEMENT REGARDING BUILD OUT OF WATER SYSTEM**

THIS AMENDMENT TO AGREEMENT REGARDING BUILD OUT OF WATER SYSTEM (“Amendment”), effective as of 9/12/2025, 2025, is made by KR DEER MOUNTAIN CLUB 2021 LLC, a South Dakota limited liability company, having an address at 107 South Main Street, P.O. Box 130, Atkinson, Nebraska 68713 (“KRDM”), and Deer Mountain Sanitary District, a governmental division of the State of South Dakota, having an address at P.O. Box 195, Lead, South Dakota 57754 (“DMSD”). KRDM and DMSD are referred to in this Amendment as the “Parties” or “Party” as appropriate.

A. PURPOSE. The purpose of this Amendment is to amend certain sections of that Agreement Regarding Build Out of Water System between KRDM and DMSD dated December 6, 2021 (“Agreement”). Except for the amendments specifically made within this Amendment, the original Agreement remains in full force and effect.

B. AMENDMENTS TO THE AGREEMENT. The Parties agree to amend the Agreement as follows:

1. The following paragraphs shall be added at the end of Section 1:

KRDM is considering purchasing a thirteen (13) acre parcel (“13 Acre Parcel”) and a sixty-one (61) acre parcel (“61 Acre Parcel”) and collectively with the 13 Acre Parcel the “Parcels”). The 13 Acre Parcel is legally described as follows:

Lot VJ-2AR of the Venus and Jupiter Lodes of MS 1209, formerly Lot VJ-2A of the Venus and Jupiter Lodes of M.S. 1209, located in the S1/2 of Section 13, T4N, R2E, BHM, Lawrence County; South Dakota, and formerly Lot 1 of Block 4 of the Mystic Miner Subdivision located in the Mystic Miner Tract, being a portion of Lot J-1 of Jupiter MS 1209 according to Plat Document No. 2012-5655.

AND

Tract 1, a subdivision of Transit and Selbie Lodes, M.S. 1209, located in Section 13 and 24, T4N, R2E, BHM, Lawrence County, South Dakota, according to Plat Document No. 2010-4315.

The 61 Acre Parcel is legally described as follows:

Carbonate, Hubble, Alexander, Fairview, Badger and Custer Lodes of Mineral Survey No. 976, located in Sections 12 and 13, T4N, R2E, BHM, Lawrence County, South Dakota, as defined and described in patent of record.

If KRDM purchases and desires to develop either or both of the Parcels for single family residential housing, as part of this Agreement, DMSD agrees to take action to annex either or both the Parcels into the DMSD boundaries after approval of the annexation is received from Lawrence County Commission by passing the proposed resolutions for the 13 Acre Parcel and 61 Acre Parcel attached as Exhibit C and Exhibit D, respectively.

KRDM will diligently pursue approval of the annexation by the Lawrence County Commission. Upon that approval, DMSD will take all steps necessary to complete the annexation contingent on KRDM transferring its existing water system to DMSD.

2. The following paragraphs shall be added to the end of Section 2:

KRDM may develop the Parcels as part of its plan to develop a total of 190 single family residences and the clubhouse and seeks DMSD to annex said Parcels for such purpose. If KRDM decides to develop either or both of the Parcels, KRDM agrees to build out and construct the water system, including but not limited to any additional pumps, storage tanks, or other infrastructure required to serve the Parcel or Parcels at its cost to specifications designated by DMSD's engineer AE2S or other mutually agreed upon engineer. Upon completion of the build out of the water system to DMSD's satisfaction the water system shall be transferred to DMSD for no compensation. Notwithstanding anything in the second paragraph of Section 2, as the additional Parcels will not increase the number of KRDM connections the Parcels shall not be considered expansion of the DMSD System outside of the area of the KR Property but considered part of KR Property and the KR Tank shall be used to provide water to the Parcels.

The transfer of the built out water system on either Parcel does not increase the number of or dollar amount of tap fees, whichever is greater, that are agreed to be waived or credited to KRDM pursuant to the third paragraph of this Section 2.

3. The following paragraphs shall be added to the end of Section 3:

KRDM may build a single clubhouse on the KR Property located at Block A-1 Revised, Deer Mountain Village . For the purpose of this Agreement and DMSD's agreement to serve 200 single family residences developed by KRDM, the clubhouse shall initially be equivalent to ten (10) single family residences. The clubhouse will be subject to DMSD's standard regulations and commercial rates in effect at the time of billing.

Two years after one hundred (100) residential hook-ups to the water system within the KR Property, which includes the Parcels, are connected and in active use, not including the hookup to the clubhouse, DMSD agrees to review the use of water at the clubhouse over the prior two years to determine whether the number of residential hook-ups allocated to the clubhouse should be reduced or increased. The determination of whether to increase or reduce the number of residential hook-ups allocated to the clubhouse shall be proportionate to the average residential hookup usage within the DMSD District when compared to the clubhouse usage. The number of equivalent residences calculated will be rounded up to the nearest whole number and that number plus the number of connections existing at the time shall be subtracted from 200 to determine the total number of single family residences connections KRDM has remaining.

KRDM, as part of its distribution line infrastructure obligation build out for the Parcels, will separately meter each residential lot at its cost using meters required by DMSD. DMSD shall read the meters of each residential lot on a regular basis and bill each

residential lot owner for its water usage at the price set by DMSD from time to time. Further, the completion and activation of the water system on the Parcels and transfer of the water system to DMSD does not alter DMSD's obligation to serve 200 individual family residences less those used for the clubhouse as described in the first paragraph of this Section.

4. Section 4 shall be deleted in its entirety and replaced with the following:

At no charge to DMSD, KRDM will donate the 1.35 acre Tank Farm Easement area as shown on the survey attached as Exhibit E by platting the property and conveying it to DMSD by warranty deed along with an access and utility easement. Presently, KRDM has granted an easement to DMSD covering the Tank Farm Easement area currently owned by KRDM. Both KRDM and DMSD have built tanks at this location. This Tank Farm Easement area was designed by KRDM to accommodate a third tank to support water for domestic use on KR Property if DMSD's engineer determines that additional storage is needed for KRDM's purposes.

After KRDM conveys by deed the Tank Farm Easement area, DMSD will immediately grant KRDM an easement to the Tank Farm Easement for access to the Tank Farm Easement area allowing KRDM to construct and maintain an additional tank if needed for KRDM's residential buildout pursuant to Agreement Section 2. DMSD shall maintain the Tank Farm Easement area so as to reserve a location for KRDM's exclusive use for an additional tank (KR Tank 2) if ever deemed necessary to serve the agreed upon connections. Upon completion of construction, KR Tank 2 shall be transferred to DMSD. As with the restrictions on KR Tank in Agreement Section 2, if constructed by KRDM the capacity of KR Tank 2 cannot be considered for expansion of the DMSD system outside the KR Properties area. This location easement granted to KRDM shall terminate in twenty (20) years if construction of KRDM's KR Tank 2 has not commenced.

KRDM will diligently pursue platting the Tank Farm Easement area by the Lawrence County Commission by April 1, 2026. Upon that plat approval, KRDM will take all steps necessary to complete the conveyance to DMSD. This property transfer will be at no charge to DMSD. Further, KRDM agrees to accommodate DMSD with any easements required to accommodate the DMSD water system to properly use the storage tank location and install waterlines to the new tank lot. KRDM and DMSD may agree once the location of the line is established as it goes through the KR Property and Parcels, that KRDM can tap off of that line for purposes of connecting mains and service lines for the water system KRDM will build out in the KR Property and Parcel area. If KRDM shall build the KR Tank at the same location as DMSD's tank, the DMSD shall also connect the line to the KR Tank. KRDM reserves the right to relocate access to the Tank Farm area so long as such relocated access does not impair the DMSD use and enjoyment of the Tank Farm area and does not require the moving of any utilities or waterlines.

5. Section 5 shall be deleted in its entirety and replaced with the following:

KRDM will pay for all required water line infrastructure from the connection point with DMSD's transmission or main lines to provide water to the lots and homes within the Annexation and Parcels. All water distribution infrastructure and metering shall be per specifications by DMSD under the direction of DMSD's engineer. Upon completion of the water distribution infrastructure, the water system distribution infrastructure for the system (including the KR Tank) along with any easements used by the water system will be transferred to DMSD including a 2-year warranty from the date of final completion that includes the responsibility of the property/homeowners for maintenance of water line from curb stop to home. Except for items covered by the warranty, after the transfer of the distribution infrastructure, DMSD will thereafter be responsible for the maintenance and repair of that infrastructure. KRDM will warranty all new water infrastructure installed for servicing of the parcels for two (2) years from the date of the system being assigned and turned over to the responsibility of DMSD. Should any third party supplier or contractor give KRDM a warranty on the water system or part of the water system, that warranty shall also be assigned by KRDM to DMSD.

C. ATTORNEY'S FEES, Upon execution of this document, KRDM shall reimburse DMSD its reasonable attorney's fees incurred in preparing this Amendment.

D. CONTINUING OBLIGATIONS. The requirements and responsibilities of DMSD and KRDM as described in the Agreement as they relate to the KR Properties shall also apply to the Parcels, including but not limited to easements and warranties.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above

**KR DEER MOUNTAIN CLUB
2021 LLC**

DocuSigned by:
Gerard Keating
By: Gerald J. Keating
Its: Manager

**DEER MOUNTAIN SANITARY
DISTRICT**

Osborne Enderby
By: Osborne Enderby
Its: President Board of Trustees

Exhibit C

Annexation Resolution
13 Acre Parcel

Resolution 2025-__

**RESOLUTION OF
DEER MOUNTAIN SANITARY DISTRICT
BOARD OF TRUSTEES ANNEXING REAL PROPERTY**

WHEREAS Deer Mountain Sanitary District is an organized sanitary district under the laws of South Dakota, and is located within Lawrence County, South Dakota; and

WHEREAS Deer Mountain Sanitary District has published notice once a week for two consecutive weeks of its intention to annex certain territory adjacent and within its boundaries said notice including the proposed resolution: and

WHEREAS Deer Mountain Sanitary District held a public hearing on this matter at 160 West Main Street Lead, South Dakota, 57754 at 4:00 PM on the ____ day of _____, 2025.

WHEREAS Deer Mountain Sanitary District Board of Trustees has received the consent of the Lawrence County Commission approving this Resolution and the annexation of the property described below at the Lawrence County Commission meeting on _____; and

WHEREAS the annexation of such territory is in the best interest of the Deer Mountain Sanitary District and Lawrence County in order to provide for safe rural water systems and sanitary systems within the County.

NOW, THEREFORE, BE IT RESOLVED that the annexation of the following described territory into the boundaries of Deer Mountain Sanitary District is hereby approved:

The following properties are all in Lawrence County.

Lot VJ-2AR of the Venus and Jupiter Lodes of MS 1209, formerly Lot VJ-2A of the Venus and Jupiter Lodes of M.S. 1209, located in the S1/2 of Section 13, T4N, R2E, BHM, Lawrence County; South Dakota, and formerly Lot 1 of Block 4 of the Mystic Miner Subdivision located in the Mystic Miner Tract, being a portion of Lot J-1 of Jupiter MS 1209 according to Plat Document No. 2012-5655,

AND

Tract 1, a subdivision of Transit and Selbie Lodes, M.S. 1209, located in Section 13 and 24, T4N, R2E, BHM,
Lawrence County, South Dakota, according to Plat Document No. 2010-4315.

BE IT FURTHER RESOLVED that a certified copy of this Resolution and a map showing the area annexed with the new boundaries of the District are to be filed with the Office of the Lawrence County Register of Deeds.

DATED this _____ day of _____ 20__

DEER MOUNTAIN SANITARY DISTRICT
BOARD OF TRUSTEES

President

ATTEST:

Clerk

EXHIBIT D

Annexation Resolution
61 Acre Parcel

Resolution 2025-__

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DEER MOUNTAIN SANITARY DISTRICT
BOARD OF TRUSTEES ANNEXING REAL PROPERTY**

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DATED this _____ day of _____ 20__

DEER MOUNTAIN SANITARY DISTRICT
BOARD OF TRUSTEES

President

ATTEST:

Clerk