

**AGREEMENT BETWEEN THE  
CITY OF LARAMIE, WYOMING AND UNIVERSITY OF WYOMING  
REGARDING JACOBY GOLF COURSE WATER**

WHEREAS, the University of Wyoming owns and operates the Jacoby golf course;

WHEREAS, the City of Laramie receives the benefit of having a golf course in Laramie which is open to all members of the general public;

WHEREAS, the University has sole responsibility for construction and maintenance of the golf course;

WHEREAS, in exchange for the University providing public access to Red Jacoby golf course, the City has agreed to provide City water for irrigation at a discounted rate to assist the University in the maintenance of this public facility;

NOW THEREFORE, under the following terms and conditions shall apply to the provision of water to the

1. **Parties.** This Agreement is entered in April, 2017, between City of Laramie, Wyoming, a Wyoming municipal Corporation (hereinafter referred to as "City"), whose address is City Hall, 406 Iverson Street, Laramie, Wyoming 82070 and University of Wyoming, a constitutionally created entity of the State of Wyoming (hereinafter referred to as "University"), whose address is Service Building, 1000 E. University, Dept. 3227, Laramie, WY 82071.
2. **Purpose.** The purpose of this Agreement is to establish the terms and conditions under which City shall provide, charge and bill University for irrigation water for University's existing 18-hole Jacoby Golf Course (herein after referred to as "Golf Course"), and University shall provide public access to the Golf Course.
3. **Term of Agreement.** This Agreement is effective from April 1, 2017 through March 31, 2020, unless this Agreement is otherwise terminated pursuant to the termination provision contained within this Agreement. This Agreement shall supersede the Golf Course Water Agreement between City and University dated August 15, 2006, and Amendment extending that Agreement through December 31, 2016.
4. **Property to be Served.** This Agreement concerns the Golf Course which is owned by University and located on real property the property line of which is shown on Exhibit A, which is attached hereto and incorporated herein. Further, this Agreement shall not extend to water provided for non-irrigation purposes to Golf Course or water provided to the Clubhouse or Indoor Golf Performance Center on Golf Course

**5. Responsibilities of City.**

**5.01.** City agrees to provide water to University for irrigation of Golf Course through its existing water distribution system in close proximity to Golf Course.

**5.02.** Beginning April 1, 2017, University shall pay for water as set forth in Paragraph 5.03, along with the standard current monthly meter fees established by the governing body of the City.

**5.03.** The City agrees that the University's commitment under Paragraphs 6.08 and 6.09 to operate the Golf Course as a public golf course is a recreational benefit and amenity for the community. In consideration of that benefit, City shall bill and University shall pay the following discounted rate for up to 75,000 kgallons of consumed irrigation water per calendar year:

**2017 - \$ 2.20 Per Unit**

**2018 - \$ 2.22 Per Unit**

**2019 - \$ 2.29 Per Unit**

University may fill its ponds using a hydrant meter provided by the City at the irrigation rates established herein for each calendar year and within the 75,000 kgallons allowance.

Consumed irrigation water in excess of 75,000 kgallons in a calendar year will be billed by the City and paid by the University according to the rate phase-in plan approved by the governing body and attached hereto and incorporated herein as Attachment B:

**2017 - \$ 7.26 Per Unit**

**2018 - \$ 7.76 Per Unit**

**2019 - \$ 8.31 Per Unit**

**5.04.** City shall meter the water furnished to Golf Course and shall have full access to the City-owned meters at all times. City shall be responsible for reading the water meters, billing, and will provide irrigation consumption records to the University upon request. City shall monthly bill the University at the rate and for the charges set forth in Paragraph 5.02 and 5.03. Such billing and this Agreement shall be subject to the City's standard sixty (60) day non-payment and collection policies including disconnect/reinstatement services and fees.

**6. Responsibilities of University.**

**6.01.** University shall be responsible for the repair and maintenance of all water lines beyond the water meter(s).

**6.02.** University agrees it will as soon as practically possible, repair, replace, remove or shut off any leaking part of the water system upon first knowledge of the leak or upon the notification of same by City Manager or designee.

**6.03.** University shall ensure the City has full, unrestricted access to the City-owned water meters at all times upon reasonable notice to University. The University agrees it shall not initiate or engage any evaluation, testing, analysis, servicing, maintenance, repair, or examination of any type upon the City water meter without grant-of-access to the meter by prior, written consent of

the City Manager or designee. University shall abide by all City ordinances that apply to other users of City utilities, in particular Laramie Municipal Code §§ 13.04, 13.08 and 13.12.

**6.04.** University shall abide by any water use restrictions imposed by City Manager. In the event City ceases to irrigate City parks, or restricts the use of water for irrigation of City parks, University shall cease to irrigate the Golf Course with City water, or restrict the use of City water for irrigation of Golf Course. In case of such event, University shall still be allowed to irrigate the tee boxes and greens on Golf Course with the approval of City Manager.

**6.05.** University agrees City does not make any promises or representations to University about the availability of water for irrigation purposes, the quality of the water, or water pressure available from time to time.

**6.06.** University shall not direct, divert, store or otherwise use the irrigation water provided for in this Agreement for any other location or purpose other than as specified herein for the Golf Course defined in Attachment A. Any diversion or unauthorized use of irrigation water under this Agreement voids all discounts which would otherwise apply under this Agreement, and the University thereafter shall pay standard rates without any credit or discount, and all of the University's other obligations under this Agreement shall remain in effect.

**6.07.** University agrees to provide an Annual Report each year by January 1 to the City Council of Laramie, including at a minimum a financial statement of operational expenses and fees earned, along with utilization statistics documenting public use of the Golf Course.

**6.08.** University agrees that for the term of this Agreement it will maintain and use Golf Course as a public golf course.

**6.09.** University agrees that it shall establish uniform user fees for Golf Course, driving range, and equipment for all persons using the course. The user fees may take into account the age or family status of the user. The fees shall not distinguish between persons who are in some manner associated with University and persons who are not, except that University may establish a separate user fee structure for University students and First Tee participants.

#### **7.00 Golf Course Irrigation from University-Owned Well**

**7.01.** Should the University during the term of this Agreement, build, operate and irrigate the Golf Course, in whole or in part, from a well, the parties will meet as soon as reasonably possible and renegotiate this Agreement or either party may terminate as set forth in this Agreement.

### **8.00 General Provisions**

**8.01. Amendments.** Either party may request changes to this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the parties to this Agreement shall be incorporated by written instrument, and effective when executed and signed by all parties to this Agreement.

**8.02. Applicable Law.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over any action arising out of this Agreement and over the parties, and the venue shall be the Second Judicial District of Albany Judicial District and County, Wyoming.

**8.03. Entirety of Agreement.** This Agreement, consisting of five (5) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.

**8.04. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person.

**8.05. Liaison and Notice.**

**8.05(i).** City's designated representative is City Manager, City Manager's Office, 406 Ivinson, Laramie, WY, 82070.

**8.05(ii).** University's representative is William H. Mai, Vice President Administration, University of Wyoming, Dept 3982, 1000 East University Avenue, Laramie, WY 82071: telephone number: (307) 766 5766 and facsimile: (307) 766-3436.

**8.06. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, and freight embargoes. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

**8.07. Termination.** This Agreement may be terminated, without cause, by either party upon one hundred eighty (180) days' written notice, which notice shall be delivered by hand or by certified mail to the address listed above.

**8.08. Indemnification.** Each party to this agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.

**8.09. Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

**8.10. Assignment/Contract Not Used as Collateral.** University shall not assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of City.

**8.11. Sovereign Immunity.** City and University and their respective governing bodies do not waive their sovereign immunity by entering into this Agreement, and each fully retains all immunities

and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.

**8.12. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement. The parties to this Agreement intend and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

**8.13. Time is of the Essence.** Time is of the essence in all provisions of the Agreement



**8.14. Titles Not Controlling.** Titles of paragraphs are for reference only, and shall not be used to construe the language in this License.

**8.15. Waiver.** The waiver of any breach of any term or condition in this License shall not be deemed a waiver of any prior or subsequent breach.

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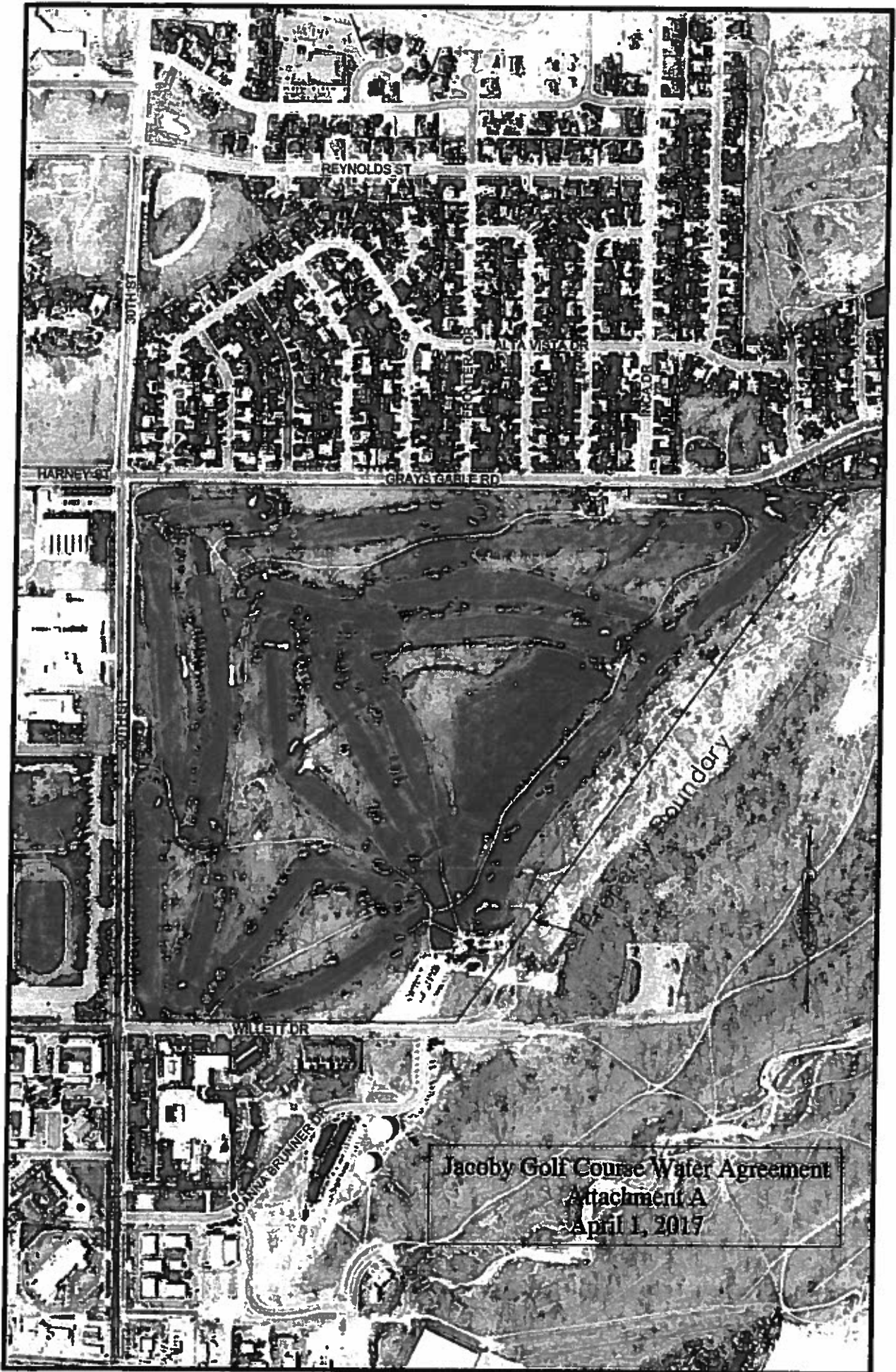
IN WITNESS WHEREOF, the Laramie City Council has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, and University through their duly authorized representatives has signed and executed this Agreement, the day and year first written above.

CITY OF LARAMIE, WYOMING:

By:  Date: 4-18-17  
Attest:  Date: 4-18-17

UNIVERSITY OF WYOMING:

By:  Date: 4/13/17  
Vice President, Administration



Jacoby Golf Course Water Agreement  
Attachment A  
April 1, 2017