

**ROCK-N-WATER
GOLD BUG PARK USE AGREEMENT**

This Agreement made and entered into this _____ by and between the City of Placerville, hereinafter referred to as City, and Rock-N-Water, hereinafter referred to as RNW.

RECITALS

1. City owned Gold Bug Park is comprised of two underground mines, stamp mill, black smith shop, gift shop, panning, walking trails, picnic areas, and restrooms. (hereinafter the "park").
2. RNW is an organization, which sponsors group tours in the park in costume and a historical setting.
3. The City wishes to make these facilities available for use by RNW for tour purposes.

AGREEMENT

1. Grant of License

The City hereby grants to RNW a nonexclusive license to use the Priest Mine and Gold Bug Mine and designated meeting/picnic area (meeting area) during the term of this license for tour purposes, and other uses clearly and directly incidental to the foregoing. The location and area of meeting area shall be mutually agreed upon by CITY and RNW each year of the term of this agreement.

2. Term of Agreement

The term of this agreement shall be from April 1, 2020 to March 31, 2021. Thereafter, this agreement will automatically renew for successive one-year terms for a period of three (3) years beginning April 1 of each year, unless either party notifies the other in writing prior to February 1 each year of its intent not to renew.

3. Scope of License

During the term of the license, RNW shall have the nonexclusive use of the Priest Mine, the Gold Bug Mine, and designated meeting area as listed in Attachment I, as scheduled with the City. This list shall be reviewed and amended as necessary by the City and the Executive Director of RNW. In the event the City should need any of the facilities listed in Attachment I to conduct a City event, perform required maintenance or repairs or any other type of City business during a RNW scheduled time, RNW agrees to cancel the day or days in conflict. The City shall strive to provide RNW as much advance notice as possible.

4. Maintenance – The City's Obligations

4.1. The City staff shall provide for the cleaning/service of restrooms located at the park.

4.2. The City shall, on a daily basis, inspect for damage and unsafe conditions in the Priest Mine, Gold Bug Mine, and other facilities, equipment and amenities.

5. Maintenance / RNW Obligation

5.1. Any condition or equipment found to be unsafe shall be reported at once to the City. Should any condition exist where the immediate safety of RNW users, the City or general public is in danger, then RNW shall cease using such facility, area or equipment until the condition is corrected.

5.2. RNW shall collect and take away all of their trash on their days of use.

5.3. At least four (4) weeks prior to the start of tour season, RNW shall designate a responsible person to work with park staff throughout the season, to resolve any issues that may arise.

5.4. RNW shall maintain and inspect their portable facilities/picnic area prior to times of use and shall be responsible to report and repair any necessary safety concerns.

5.5. Vehicles and Parking. RNW and Participants shall not park in any fire lanes, parking stalls, or any other unauthorized locations within Park boundaries. This provision will be strictly enforced by City and El Dorado County Fire Dept. Vehicles not in compliance will be ticketed and towed at the sole expense of the owner.

5.6. RNW shall provide qualified and experienced supervision and tour guides for tours. This agreement shall not be construed as creating any employment relationship between the CITY and RNW employees/personnel.

6. User Fee Structure

6.1. RNW will be subject to a per person fee of \$7.00 per tour per day.

6.2. Payments will be paid in full by the 15th of the following month. Failure to pay by due date may result in forfeiture of park use privileges for the remainder of the calendar year. Subject to paragraph 6.6.

6.3. RNW and the City shall meet annually in January to discuss usage for the upcoming season. If any additional usage is requested, fees may be adjusted at this time in order to cover direct costs.

6.4. Use of the park by RNW outside of those days/hours agreed to by RNW and the City, as set forth on Attachment 1 is not allowed, unless specifically agreed to by CITY. Once notified or aware of any infraction, it will be up to RNW to immediately correct to prevent ongoing occurrences.

6.5. Within 30 days after the execution of this Agreement, RNW will provide the City with a \$1,000.00 security deposit and in each succeeding year by April 1 of each season. From this deposit, the City, as part of the license Agreement, will be able to deduct for any repairs or damages caused by RNW. This deposit issue will be reviewed at the conclusion of each season and the remaining balance of the deposit will be applied towards RNW's last payment.

6.6. Should RNW fail to pay fees due, all use of facilities shall be immediately suspended and this Agreement may be terminated if RNW fails to pay all funds due within ten (10) days from the date of notice by the City.

7. RNW Meeting/Picnic Area

RNW shall be responsible for all set-up and take down of designated meeting/picnic area. RNW shall provide portable shade structure and hay bales. RNW shall maintain meeting/picnic area in a neat, orderly, and safe condition. RNW shall remove shade structure and hay bales within two working days after RNW's season ends.

8. PA Equipment: Restrictions on Use

A public address system (i.e., amplified sound system) may be used only during special activities with the prior written approval of the Director of Community Services. The Director of Community Services shall determine an acceptable level of sound volume. An appropriate restrictor or volume control device shall be installed on the amplifier so that the sound volume does not exceed the level approved by the Director.

9. Smoking Restriction

Smoking is permitted in designated areas only. RNW agrees to assist the City in promoting a smoke-free environment by including provisions in the organization's local operating rules advising participants of the Park's smoking regulations.

10. Alcohol Restrictions

Alcoholic beverages are not allowed during RNW events except as follows. If RNW is planning on providing or selling alcoholic beverages at Park, it must be approved by the Police Department and the Recreation & Parks Department and the appropriate permits issued from the State Department of Alcohol Beverage Control. In addition, all sales of food or other concessions must be approved by the Recreation & Parks Department.

11. Schedules

RNW shall prepare and submit to the City annually, upon execution of this Agreement and in future years, a schedule of tour dates and times at least two months prior to the start of each tour season, so that no conflict arises and so the Gold Bug Park Maintenance and Operations Specialist can schedule tours accordingly. The Gold Bug Park Maintenance and Operations Specialist shall approve all tour schedules. The Gold Bug Park Maintenance and Operations Specialist may close park in the event of inclement weather or unsafe conditions.

12. Indemnities and Insurance.

12.1 RNW shall hold harmless, defend and indemnify the City, its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees which actually or allegedly arise out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of RNW, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the sole negligence, or willful misconduct of the City its officers, officials, employees and volunteers.

12.2 Prior to, or upon execution of this license Agreement, RNW shall procure and maintain for the duration of the agreement, and for one year thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the agreement. Coverage shall be at least as broad as:

- Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence
- Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employers’ Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

12.3 Other Insurance Provisions

Additional Insured - The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of RNW including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the RNW. General liability coverage can be provided in the form of an endorsement to the RNW’s insurance (at least as broad as ISO Form CG 20 26).

Primary Insurance - For any claims related to this agreement, RNW's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the RNW's insurance and shall not contribute with it.

Notice of Cancellation - RNW shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, RNW shall forthwith obtain and submit proof of substitute insurance.

Acceptability of Insurers - Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the Entity.

Waiver of Subrogation - RNW hereby agrees to waive rights of subrogation which any insurer of RNW may acquire from RNW by virtue of the payment of any loss. RNW agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by RNW, its employees, agents and subcontractors.

Verification of Coverage - RNW shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the RNW's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

13. Administration.

The Recreation Department for the City is hereby appointed to administer this Agreement and the license granted hereunder on behalf of the City and is authorized to act on behalf of the City wherever and whenever this Agreement calls for action by the City.

WHEREFORE, the parties hereto have executed this Agreement on the day and in the year first above written:

CITY OF PLACERVILLE

ROCK-N-WATER

Terry Zeller, Director of
Community Services

Aaron Daly, Camp Director

Date: _____

Date: _____

Attachment 1**ROCK-N-WATER****Facility Use Schedule
2020**

PARK	FACILITIES	DATE(S)	DAY(S)	TIME(S)
Gold Bug Park	Priest Mine Gold Bug Mine Designated Picnic Area	April – 1 st week in June	Mon-Thurs Occasional Friday's	12 PM – 2:00 PM Occasional use of other available time slots.