

**LOAN AND INFRASTRUCTURE
DEVELOPMENT AGREEMENT**

This Agreement is made and entered into by and between the CITY OF RAPID CITY, a municipal corporation, hereafter called the "City," and BUNTROCK-GRAZIANO-WARD DEVELOPMENT COMPANY, L.L.C., hereafter called "BGW."

Recitals

WHEREAS, the City has established an Infrastructure Development Partnership Fund (hereafter called the "Fund") to assist in providing adequate public improvements in areas of new development by financing the development of public improvements where such costs shall be repaid by the developer, BGW, and shall hereinafter be referred to as the "loan"; and

WHEREAS, BGW is the owner and developer of certain real property known as Red Rock Canyon Estates (hereafter called the "Development") located generally southwest of the City of Rapid City and north of the original Countryside Subdivision and more particularly described as follows:

The N1/2 and unplatted balance of NW1/4SE1/4, and unplatted balance of NW1/4SW1/4, and unplatted balance of NE1/4SW1/4, all in Section 29, T2N, R7E, BHM, Pennington County, South Dakota, together with easement appurtenant thereto for access and egress across N1/2SE1/4 and across SE1/4SE1/4 of Section 29, T1N, R7E, BHM, Pennington County, South Dakota, and Outlot A of Tract A of Countryside Subdivision, Pennington County, South Dakota;

and

WHEREAS, BGW has made application for the use of Infrastructure Development Partnership funds in connection with the development of the real property above described and, in particular, for water line and waste water line construction; and

WHEREAS, the Rapid City Infrastructure Development Partnership Review Committee has recommended approval of the application for a loan to BGW of \$870,773 from the Fund and the utilization of an additional sum of \$528,500 from the Fund for payment of the Sheridan Lake interceptor upon certain terms and conditions hereafter set forth; and

WHEREAS, the parties hereto desire to enter into this Agreement to set forth the terms and conditions under which BGW will borrow \$870,773 from the Fund and utilize the additional sum of \$528,500 to be repaid from connection fees and the terms and conditions under which the public improvements will be constructed by the City and the costs thereof repaid by connection fees charged to the BGW Development Project and other development in the area;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions herein set forth, it is agreed as follows:

1. The City shall loan to BGW and BGW shall borrow from the Fund the principal sum of \$870,733. The principal sum of \$870,733 shall be interest-free for a period of five years from the date of substantial completion of the public improvements to be constructed from the loan proceeds. Thereafter and commencing at the beginning of the sixth year following substantial completion of the public improvements, interest shall accrue on the unpaid balance at an annual rate of 1% above the Prime Rate determined as of the date interest commences.

2. **Repayment.** BGW shall repay the loan upon the earlier of either (a) approval by the City of a final plat of the last phase of this project or (b) ten years from the date of substantial completion of the infrastructure construction project, whichever occurs first. In the event final platting of BGW's Development is accomplished in separate phases, then repayment of the principal and accrued interest shall be prorated based upon the number of lots then receiving final plat approval in relation to the total number of lots to be platted in the entire Development, expressed by the following formula:

$$\frac{\text{number of lots receiving final plat approval}}{\text{total number of lots in Development}} \times \text{principal and accrued interest as of date of plat approval} = \text{loan repayment amount}$$

Notwithstanding the above formula, BGW Development shall be obligated to repay the City the entire balance of the loan when the final plat is approved for the last phase of this project.

3. **Loan Guaranty and Security for Repayment.** In order to assure to the City repayment of the principal and all accrued interest as herein provided, BGW shall provide the City with a bank secured letter of credit. The letter of credit will be provided before loan proceeds are distributed.

4. **Promissory Note.** The loan as herein provided shall be evidenced by a Promissory Note in the form shown on the attached Exhibit A.

5. **Water Line and Sewer Line Construction Project.** The parties shall construct in accordance with applicable City construction standards and requirements certain water lines and waste water lines which will service the Development and which may also in the future service other development in the area. The parties have estimated the costs of the separate constituent parts of the entire construction projection, inclusive of design fees, and have agreed as to the apportionment of the costs between the City and BGW. The following is the agreed division of the respective costs of the water line construction and the waste water line construction:

FUNDING ALLOCATION FOR WATER LINE CONSTRUCTION

	PROJECT COMPONENT	EST. COST	CITY	BGW
A	Transmission along Wildwood Drive	165,550	100%	0%
B	Transmission along Section Line	222,475	30%	70%
C	Transmission to City Reservoir	343,750	30%	70%
D	Water Reservoir	1,500,000	100%	0%
▲	Booster Pump, upper storage	474,375	0%	100%

A, B, C, D - Letters refer to projects outli \$2,706,150 to as Exhibit B.

FUNDING ALLOCATION FOR WASTE WATER LINE CONSTRUCTION

	PROJECT COMPONENT	EST. COST	CITY	BGW
E	Interceptor Sheridan Lake Road	\$528,550	100%	0%
F	Force Main and Lift Station	309,375	0%	100%

E, F - Letters refer to projects outlined or \$827,925 Exhibit B.

TOTAL PROJECT COST = \$3,544,075 3,544,075

The design and construction, in accordance with this agreement, shall be done by the party paying more than fifty percent (50%) of the cost as stated above, with the City having the right to approve the design.

6. **Costs Variations.** In the event the actual construction costs vary from the above construction costs estimates, the parties agree that any actual costs will be paid by the developer in proportion to the percentages described above unless otherwise agreed to by the parties. Any agreements by the parties regarding actual costs shall be confirmed in writing and approved by the Rapid City Council.

7. **Easements and Rights of Way.** In order for the City to accomplish the construction project, BGW shall dedicate or obtain and provide to City, at no cost to the City, such easements and rights of way over, under and across private property, both permanent and for construction purposes, as may be necessary to construct and permanently locate, repair and maintain the public water line and waste water lines as depicted on the attached Exhibit B.

8. **Reservoir Site.** The construction project shall encompass the location and construction of a ground water storage reservoir at a site as generally depicted on the attached Exhibit B. BGW shall convey to the City and at no cost to the City sufficient land to accommodate the construction of a 3-million gallon water storage reservoir. It is anticipated that the water storage reservoir will be a ground water storage reservoir painted in earth tone colors. The lot will be the minimum size required for such reservoir. BGW shall convey the reservoir lot to the City by good and sufficient warranty deed, free and clear of all liens and encumbrances.

9. **Project Improvements.** All infrastructure project improvements constructed by the City under this Agreement shall be public in character and shall be conveyed to the City together with all easements and rights of way related thereto, upon substantial completion thereof. All such improvements and related easements and rights of way shall be conveyed and assigned to the City by deed or other appropriate conveyance, free and clear of all liens and encumbrances.

10. **Annexation of Development.** As a material consideration for the City to enter into this Agreement, BGW does hereby agree that before any loan proceeds are disbursed or construction begun on this project, BGW shall petition for annexation of the Development into the City of Rapid City and shall comply with all applicable requirements under law to accomplish annexation of the Development into the City of Rapid City. The parties agree that this project will not progress beyond the design phase until the annexation of development is effective.

11. **Connection Fees.** The parties agree that applicable connection fees based on final project costs for the sewer interceptor along Sheridan Lake Road and the oversize cost on the water transmission lines shall be paid prior to the issuance of the building permit.

12. **Funds Repaid from Connection Fees.** In addition to the loan from the Fund as provided in paragraph 1 hereof, the City shall also be entitled to utilize \$528,550 from the Fund for completion of the sewer interceptor line, which sum shall be repaid to the Fund through connection fees from both the Red Rock Canyon Estates and other development as may be served by the sewer interceptor located along Sheridan Lake Road.

13. **Well Permit.** The City acknowledges that BGW may apply for a well permit to service the golf course and that the parties will cooperate regarding this permit for the mutual benefit of both parties; however, the City retains its rights to pursue any course of action necessary to protect the public interest.

14. **Further Assurances.** The parties agree to execute such other and further documents and instruments, not inconsistent herewith, as may be reasonably necessary to accomplish the intent and purpose of this Agreement.

15. **Modification.** This Agreement may be amended only by written agreement of the parties hereto.

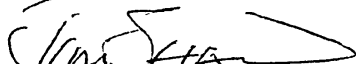
16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

DATED: JUNE 26, 2000.

CITY:

CITY OF RAPID CITY, a municipal corporation


By


Jim Shaw, Mayor


BGW:

BGW DEVELOPMENT COMPANY, LLC

By


Its: MEMBER
KEVIN L. BUNTROCK

ATTEST:


James F. Preston, Finance Officer

PROMISSORY NOTE

US \$870,773.00

Rapid City, SD
June 8, 2000

FOR VALUE RECEIVED, BGW Development Company, LLC of Rapid City, SD (Borrower) promises to pay to the City of Rapid City, Rapid City, South Dakota, (Lender) the principal sum of Eight Hundred Seventy Thousand Seven Hundred Seventy Three Dollars and no cents (\$870,773.00) plus accrued interest. The principal shall be interest-free for a period of five years from the date of substantial completion of the public improvements to be constructed from the loan proceeds. Thereafter and commencing at the beginning of the sixth year following substantial completion of the public improvements, interest shall accrue on the unpaid balance at an annual rate of 1% above the Prime Rate determined as of the date interest commences.

Lender hereby accepts that the principal sum represents repayment of an Infrastructure Development Partnership Fund Loan (Loan) to assist in providing adequate public improvements in an area known as Red Rock Canyon Estates, more specifically described in the Loan and Infrastructure Development Agreement (Agreement) authorized by the Rapid City Council on June 19, 2000.

Borrower shall repay the loan upon the earlier of either (a) approval by the City of a final plat of Borrower's development or (b) ten years from the date of substantial completion of the infrastructure construction project. In the event final platting of Borrower's development is accomplished in separate phases, then repayment of the principal and accrued interest shall be prorated in accordance with the formula established in Section 2 of the Agreement. Borrower is obligated to repay the City the entire balance of the Loan including accrued interest when the final plat is approved for the last phase of this project.

Payments shall be made to: City of Rapid City Finance Office
300 Sixth Street
Rapid City, SD 57701

Attn: James F. Preston, Finance Officer

If any installment under this note is not paid when due and remains unpaid after a date specified by notice to Borrower, the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of the note holder. The date specified shall not be less than thirty (30) days from the date such notice is mailed. The note holder may exercise its option to accelerate during any default by Borrower regardless of any prior forbearance. In the event of default, if costs are incurred to collect this note, the note holder shall be entitled to collect all reasonable costs and expenses of collection allowed by law, including reasonable attorney's fees.

Borrower shall have the right to prepay without penalty all or a portion of the remaining balance of this note at any time after date of execution with interest, if any, computed to the date of such prepayment.

All makers, sureties, guarantors, and endorsers hereby waive presentment, notice of dishonor, and protest hereof. This note shall be the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.

Any notice to Borrower provided for in this note shall be given by mailing such notice to BGW Development Company, LLC at an address designated by written notice from Borrower.

The indebtedness evidenced by this Note is secured by (Financial Performance Bond – Letter of Credit, etc.) Dated _____. A copy of this security is herein incorporated by reference as if fully set forth in this document.

All documents and agreements between the parties hereto shall be governed by and construed in accordance with the laws of the State of South Dakota.

This agreement shall be binding upon the parties hereto, their heirs, successors, and assigns.


IN WITNESS WHEREOF, the undersigned sets its hand and seal this 21 day of June, 2000.

ACKNOWLEDGEMENT

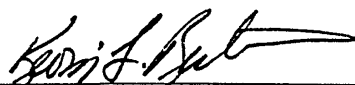
BORROWER

City of Rapid City

BGW Development Company, LLC.



Finance Officer

By: 

KEVIN L. BLUSTROCK
MEMBER

(SEAL)

ADDENDUM TO
LOAN AND INFRASTRUCTURE
DEVELOPMENT AGREEMENT

WHEREAS, the CITY OF RAPID CITY, a municipal corporation, hereafter called "the City", and BUNTROCK-GRAZIANO-WARD DEVELOPMENT COMPANY, L.L.C., hereafter called "BGW", entered into a Loan and Infrastructure Development Agreement on June 26, 2000, for a loan in the amount of \$870,773; and


WHEREAS, the City has agreed to loan BGW an additional \$90,000 for road grading from the Infrastructure Development Partnership Fund;

NOW, THEREFORE, the parties agree that all the terms and conditions of the above-referenced Agreement, regarding the repayment of the original loan, shall be binding upon the parties for the additional \$90,000 loan.

DATED: 8-8, 2000.

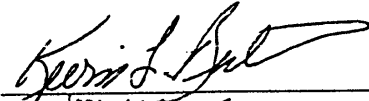
CITY:

CITY OF RAPID CITY, a municipal
corporation

By 
Jim Shaw, Mayor
8-7-00

BGW:

BGW DEVELOPMENT COMPANY, LLC

By 
Its: HEARST

ATTEST:


James F. Preston, Finance Officer

State of South Dakota,)
) ss.
County of Pennington.)

ON THIS DAY, Aug 16, 2000, before me, the undersigned officer, personally appeared Jim Shaw, who acknowledged himself to be Mayor of the CITY OF RAPID CITY, a municipal corporation, and that he, as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the CITY OF RAPID CITY by himself as Mayor.

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

(SEAL)

Jeri Lynn
Notary Public
My Comm. Expires: 9-3-2002

State of South Dakota,)
) ss.
County of Pennington.)

ON THIS DAY, Aug 16, 2000, before me, the undersigned officer, personally appeared James F. Preston, who acknowledged himself to be Finance Officer of the CITY OF RAPID CITY, a municipal corporation, and that he, as such Finance Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the CITY OF RAPID CITY by himself as Finance Officer.

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

(SEAL)

Jeri Lynn
Notary Public
My Comm. Expires: 9-3-2002

State of South Dakota,)
) ss.
County of Pennington.)

ON THIS DAY, Aug 24, 2000, before me, the undersigned officer, personally appeared Kevin Bunker, who acknowledged himself to be a Member of BGW DEVELOPMENT COMPANY, LLC, and that he, as such Member, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of BGW DEVELOPMENT COMPANY, LLC, by himself as a Member.

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

(SEAL)

Jeri Lynn
Notary Public
My Comm. Expires: 9-3-2002