

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. AGREEMENT BETWEEN CITY
COUNTY OF PENNINGTON) OF RAPID CITY AND ARLENE HAM

This agreement made this _____ day of _____, 2003, by and between the City of Rapid City, a municipal corporation organized under the laws of the State of South Dakota, hereinafter referred to as the City, and Arlene Ham of 1116 Crestridge Court, Rapid City, SD 57702, hereinafter referred to as the Developer.

WHEREAS, the Developer is the owner of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) and the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, which land is located within the corporate limits of the City, and further, the Developer wishes to make connection to the water distribution system of the City, and the City desires to provide such water service; and

WHEREAS, the Developer is required by subdivision ordinance of the City and a resolution of the Common Council dated June 17, 1985, to pay for the cost of installation of the water lines to provide adequate water quantities and pressure to the property being developed and land adjacent to the northeast corner of Developer's property described as the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southeast

Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian; and

WHEREAS, the cost of construction of a water main to connect with the City's water distribution system on Golden Eagle Drive through property described as the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian to the point of termination on land owned by Developer described as the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) and the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4), Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, is estimated to be \$36,540.00 of which Developer's share is estimated to be \$18,630.00 and the share of the owner of the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian share is estimated to be \$15,030.00 based upon the acreage of property to be served by the water line. The City's over-size construction is estimated to be \$2,880.00.

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

1. The Developer agrees to construct a water main consisting of ten inch over-sized water main from the connection of the City's water distribution on Golden Eagle Drive across the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the

Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian onto property owned by Developer.

2. The City agrees to identify all property that may benefit from the above-described water system improvements and further agrees to establish a connection fee which would be levied against said property at such time the property receives water service. The City agrees to reimburse the Developer a portion of the above-described connection fee as the fee is collected in an amount estimated to be \$15,030.00. The said amount of reimbursement to the Developer will be based upon the actual construction costs with Developer's share estimated to be \$18,630.00 and the share of the owner of the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian estimated to be \$15,030.00, when the owner of the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian taps into the water line. The parties acknowledge that unless the water line is tapped into by the owner of the Unplatted Portion of the East One-Half (E 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township One (1) North, Range Seven (7) East of the Black Hills Meridian at the time of construction that the cost could and most likely will increase into the future, the parties agreeing that the amount of reimbursement to be received by Developer shall be based upon the actual construction cost not to exceed \$16,000.00.

3. This agreement shall take effect upon its execution by the respective parties hereto. This agreement shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns. The obligations herein shall run with the land.

The Developer shall save and hold the City harmless from any and all damages resulting from the omission of, or inability of the City to furnish water as herein provided. However, this clause shall not apply to penalties, liabilities, claims, or demands of any kind or character arising out of the City's own negligence or of its agents, servants or employees.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective duly authorized officers as of the day and year first above written.

Dated this _____ day of April, 2003.

CITY OF RAPID CITY

By: _____
Jerry Munson, Mayor

ATTEST:

Finance Officer

(SEAL)

Dated this _____ day of April, 2003.

Arlene Ham

State of South Dakota)
SS.
County of Pennington)

On this the _____ day of April, 2003, before me, the undersigned officer, personally appeared Jerry Munson and James F. Preston, who acknowledged themselves to be the Mayor

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and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

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

Notary Public, South Dakota

My Commission Expires:

(SEAL)

[illegible]

On this the ____ day of April, 2003, before me, the undersigned officer, personally appeared Arlene Ham, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

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

Notary Public, South Dakota

My Commission Expires:

(SEAL)