



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Growth Management Department

300 Sixth Street

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MEMORANDUM

TO: Rapid City Council

FROM: Vicki L. Fisher, Urban Planner III

DATE: March 31, 2004

RE: Authorization for Mayor and Finance Officer to sign a waiver of right to protest a future assessment for street improvements.

Legal Description: A portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of



EQUAL HOUSING
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

(Addressee)

(Date)

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Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 17°49'29", an arc length of 186.66 feet, a chord bearing of N31°30'25"E, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less

A Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along S.D. Highway 44 has been submitted in conjunction with a Layout and Preliminary to subdivide the subject property creating a 4.69 acre commercial lot and leaving a 64.16 acre non-transferable balance. A stipulation of approval of the Variance to the Subdivision Regulations requires that the applicant sign a waiver of right to protest a future assessment for the installation of curb and gutter along S.D. Highway 44 as it abuts the subject property. The document also requires the signature of the Mayor and the Finance Officer.

Staff Recommendation: Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation curb and gutter along S.D. Highway 44 as it abuts the above legally described property.

(File #04SV017)

(File Name)

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

JEA
3-29-04

AGREEMENT WAIVING RIGHT TO PROTEST
(SDCL 9-45-26; 9-47-13; 9-48-18; 9-48-42)

THIS AGREEMENT IS MADE and entered into this 31st day of MARCH, 2004, by and for R-J Development Corp., hereinafter called "Developer," and the City of Rapid City, a municipal corporation of the State of South Dakota, hereinafter called the "City."

WHEREAS the Developer has proposed a plat to be located and developed according to the attached final subdivision plat and it is the intent of the Developer to meet the conditions of the subdivision regulations required for the proposed final plat of this property and approved by the Rapid City Council on _____, 2004; and

WHEREAS it is the intended purpose of the Developer to obtain final approval for this subdivision plat; and

WHEREAS the City of Rapid City's subdivision regulations require installation of curb and gutter which in this instance would require the Developer to install curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly

edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 17°49'29", an arc length of 186.66 feet, a chord bearing of N31°30'25"E, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less; and

WHEREAS it is the intent and purpose of both the Developer and the City to enter into an agreement whereby the Developer will consent to a future assessed project for the installation of curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a

curve with a radius of 600.00 feet, a delta angle of $17^{\circ}49'29''$, an arc length of 186.66 feet, a chord bearing of $N31^{\circ}30'25''E$, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less, as required by Rapid City Subdivision Regulations;

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

1. This agreement pertains to, and includes those properties which are designated and identified as follows:

A portion of Tract T of Trailwood Village, located in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: $S67^{\circ}24'19''E$, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: $N46^{\circ}30'40''E$, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of $20^{\circ}28'24''$, an arc length of 110.00 feet, a chord bearing of $S53^{\circ}43'32''E$, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: $S63^{\circ}57'44''E$, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: $S38^{\circ}38'57''W$, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: $S38^{\circ}38'57''W$, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: $S38^{\circ}53'52''W$, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: $N51^{\circ}11'35''W$, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: $N40^{\circ}25'09''E$, along the easterly edge of the right-of-way of said

Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of $17^{\circ}49'29''$, an arc length of 186.66 feet, a chord bearing of $N31^{\circ}30'25''E$, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less.

2. This agreement specifically references the installation of curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: $S67^{\circ}24'19''E$, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: $N46^{\circ}30'40''E$, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of $20^{\circ}28'24''$, an arc length of 110.00 feet, a chord bearing of $S53^{\circ}43'32''E$, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: $S63^{\circ}57'44''E$, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: $S38^{\circ}38'57''W$, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: $S38^{\circ}38'57''W$, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: $S38^{\circ}53'52''W$, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: $N51^{\circ}11'35''W$, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: $N40^{\circ}25'09''E$, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of $17^{\circ}49'29''$, an arc length of 186.66 feet, a chord bearing of $N31^{\circ}30'25''E$, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less.

3. The Developer acknowledges the City has the power to make assessments for local improvements on property adjoining or benefited thereby, to collect same in the manner provided by law, and to fix, determine and collect penalties for nonpayment of any special assessments. The Developer agrees that if at any time in the future the City determines it is necessary or desirous to install curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 17°49'29", an arc length of 186.66 feet, a chord bearing of N31°30'25"E, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less, through an assessed project, Developer or its heirs, assigns, or successors in interest, waive any right to object to such an assessed project as allowed under state law in consideration for the final approval of the subdivision plat without the immediate installation of curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village,

common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 17°49'29", an arc length of 186.66 feet, a chord bearing of N31°30'25"E, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less. It is understood by the Developer that the City of Rapid City's primary consideration for the granting of the approval for a subdivision plat on the herein described property and forbearance from requiring Developer to install curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a

delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course: S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 17°49'29", an arc length of 186.66 feet, a chord bearing of N31°30'25"E, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less, is the Developer's covenant and promise to waive any right to object to the assessed project and its consent to the assessed project.

4. Developer further covenants and agrees for itself, its heirs, assigns, and successors in interest, that should it or any of its heirs, assigns, or successors in interest fail to abide by each and every covenant herein contained, the immediate installation of curb and gutter along a portion of Tract T of Trailwood Village, located in the SE1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of Covington Street, and the Point of Beginning; Thence, first course: S67°24'19"E, along the southerly boundary of said Lot A of Block 16, a distance of 324.26 feet, to the southeasterly corner of said Lot A of Block 16; Thence, second course: N46°30'40"E, along the easterly boundary of said Lot A of Block 16, a distance of 154.00 feet, to the northeasterly corner of said Lot A of Block 16, common to a point on the southerly edge of the right-of-way of Teak Drive; Thence, third course: southeasterly, along the southerly edge of the right-of-way of said Teak Drive, curving to the left on a curve with a radius of 307.84 feet, a delta angle of 20°28'24", an arc length of 110.00 feet, a chord bearing of S53°43'32"E, and a chord distance of 109.42 feet, to a point of tangency; Thence, fourth course: S63°57'44"E, along the southerly edge of the right-of-way of said Teak Drive, a distance of 39.55 feet, to the northwesterly corner of Lot 5 of Block 3 of Ridgeview Place Subdivision; Thence, fifth course:

S38°38'57"W, along the westerly boundary of said Lot 5 of Block 3 of Ridgeview Place Subdivision, a distance of 86.16 feet, to the southwesterly corner of said Lot 5 of Block 3, common to the northwesterly corner of Lot B of Block 2 of Ridgeview Place Subdivision; Thence, sixth course: S38°38'57"W, along the westerly boundary of said Lot B of Block 2 of Ridgeview Place Subdivision, a distance of 332.48 feet, to the southwesterly corner of said Lot B of Block 2, common to the northwesterly corner of Lot A of Block 2 of Ridgeview Place Subdivision; Thence, seventh course: S38°53'52"W, along the westerly boundary of said Lot A of Block 2 of Ridgeview Place Subdivision, a distance of 162.79 feet, to the southwesterly corner of said Lot A of Block 2 of Ridgeview Place Subdivision, common to a point on the northerly edge of the right-of-way of SD State Highway 44; Thence, eighth course: N51°11'35"W, along the northerly edge of the right-of-way of said SD State Highway 44, a distance of 461.12 feet, to the northeasterly corner of the intersection of said SD State Highway 44, and said Covington Street; Thence, ninth course: N40°25'09"E, along the easterly edge of the right-of-way of said Covington Street, a distance of 140.36 feet, to a point of curve; Thence, tenth course: northerly, along the easterly edge of said Covington Street, curving to the left on a curve with a radius of 600.00 feet, a delta angle of 17°49'29", an arc length of 186.66 feet, a chord bearing of N31°30'25"E, and chord distance of 185.91 feet, to the southwesterly corner of said Lot A of Block 16 of Trailwood Village, common to a point on the easterly edge of the right-of-way of said Covington Street, and the Point of Beginning; said parcel contains 4.680 acres more or less, which is required in the City subdivision regulations will be required within 90 days of the objection in order to comply with the City of Rapid City's subdivision regulations. Should the weather prevent immediate installation of these subdivision improvements, the City Council may accept a surety bond in an amount equal to the estimated cost of installation of the improvements, whereby the improvements will be made and utilities installed without cost to the City in the event of default of the Developer.

5. All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of the Developer, and be considered as a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this agreement recorded with the Pennington County Register of Deeds' Office pursuant to the provisions of South Dakota statutes.

6. The City may undertake any legal or equitable action available to enforce the provisions of this agreement in addition to any remedy provided herein. In the event the City is required to undertake any action to enforce the terms of this agreement or its subdivision regulations in connection with this agreement, the undersigned, heirs, assigns or successors in interest agree the City may recover from the owner of said property its reasonable expenses, including attorney's fees incurred with respect to such action.

7. If any section(s), or provision of this application is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision of this application if they can be given effect without the invalid section(s) or provisions.

State of South Dakota)
 ss.
County of Pennington)

On this the 31st day of March, 2004, before me, the undersigned officer personally appeared London Howes, who acknowledged himself to be the Power of Attorney of R-J Development Corp., and that he, as such Power of Attorney, being authorized so to do, executed the foregoing instrument by signing the name of R-J Development Corp. by himself as Power of Attorney.

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

Jan M. Nicholson
Notary Public, South Dakota

My Commission Expires: 5-25-2008

(SEAL) :

8. This agreement shall be construed according to the laws of the State of South Dakota. No modification or amendment to this agreement shall be valid, unless evidenced by a writing signed by the parties hereto.

9. If the Developer is a corporation, it has the power to enter into this agreement and its officers signing for it have full power and authority to do so.

DATED this _____ day of _____, 2004.

CITY OF RAPID CITY

Jim Shaw, Mayor

ATTEST:

Finance Officer

(SEAL)

R-J DEVELOPMENT CORP/

By: _____
Its: _____

[Handwritten signature]
[Handwritten: Power of attorney]

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2004, before me, the undersigned officer, personally appeared Jim Shaw and James F. Preston, who acknowledged themselves to be the Mayor 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 Agreement Consenting to Assessed Project 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)

PENNINGTON TITLE COMPANY



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COMPANY/FIRM: _____

FAX NUMBER: 394-6636

FROM: _____

DATE: _____

REFERENCE: _____

OUR FILE NO.: _____

NO. OF PAGES (including cover sheet): _____

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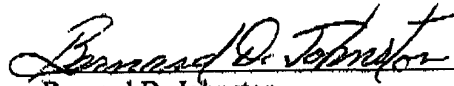
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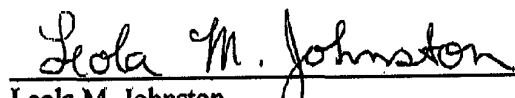
MINUTES OF SPECIAL MEETING
AND RESOLUTION
OF R-J DEVELOPMENT, CORPORATION.

A special meeting of the Directors of R-J Development, Corporation, was held at the offices of the Corporation on January 22, 2004. The Directors of the Corporation, Bernard D. Johnston and Leola M. Johnston, were both present and waived notice of the time, place and purpose of the special meeting. The purpose of this meeting was to authorize the President of the Corporation to execute a power of attorney on behalf of the Corporation naming Gordon Howie as attorney-in-fact for the Corporation to execute real estate documents for and on behalf of the Corporation with respect to the Corporation's real property located in the Trailwood Village Subdivision, Pennington County, South Dakota. Upon motion duly made, the following resolution was adopted:

RESOLVED that Bernard D. Johnston, President of R-J Development, Corporation, is authorized to sign, execute and deliver for and on behalf of the Corporation a limited power of attorney authorizing Gordon Howie, of Rapid City, South Dakota, to execute documents of conveyance on behalf of the Corporation in the form shown on the Limited Power of Attorney attached hereto and made a part of this resolution.

There being no further business to come before the meeting, the meeting was adjourned.


Bernard D. Johnston


Leola M. Johnston