

AGREEMENT

WHEREAS, Doyle Estes, hereafter "Developer," owns certain land within the City of Rapid City located on North Elk Vale Road legally described as:

A parcel of land located in the SW1/4 of Section 22, T2N, R8E, BHM, Pennington County, South Dakota, being more particularly described as beginning at the southwest corner of said Section 22; thence S89°47'57"E, 50.00 feet; thence N00°02'25"E, 2108.32 feet to the true point of beginning; thence N00°02'25"E, 539.93 feet to a point lying on the north line of said SW1/4; thence N89°48'23"E, along said north line, 1275.18 feet; thence departing said north line S00°01'44"W, 561.85 feet; thence N88°49'19"W, 1275.54 feet; to the point of beginning containing 16.127 acres more or less;

and

WHEREAS, Developer is seeking the approval from the City of Rapid City of a plat of the land located on North Elk Vale Road; and

WHEREAS, the City of Rapid City requires the construction of certain improvements as a condition of plat approval; and

WHEREAS, the City of Rapid City finds it in the public's best interest to require the Developer to install water and sewer lines that are greater in size than is necessary for service of the Developer's property; and

WHEREAS, the City of Rapid City is required to pay for the costs of the oversize of the water and sewer lines; and

WHEREAS, the Developer is willing to pay the initial cost of these utilities in full if the City agrees to reimburse the Developer for the City's share of the cost of the improvements.

NOW, THEREFORE, BE IT AGREED by the parties as follows:

1. The Developer shall construct both water and sewer lines to the Developer's property in accordance with the subdivision regulations, including the requirements of the City for oversizing.
2. The City shall pay the Developer the additional cost incurred by the Developer in constructing the utilities attributable to the City's requirement for oversizing of those utilities. The amount of the City's obligation shall be determined based upon the actual cost of construction, but in any case, shall not exceed Two Hundred Thousand Dollars (\$200,000.00).
3. The City's obligation to pay under this Agreement shall not arise until the later of January 30, 2005, or the acceptance by the City of the improvements.

4. The provisions of this Agreement shall be construed according to the laws of the State of South Dakota. Any dispute arising under this Agreement shall be litigated only in the Seventh Circuit Judicial Court for the State of South Dakota located in Rapid City, Pennington County, South Dakota.

5. This written document contains the entire agreement of the parties. No other promises or considerations form any part of the agreement. All prior negotiations are either merged herein or intentionally omitted.

Dated this _____ day of April, 2004.

CITY OF RAPID CITY

Jim Shaw, Mayor

ATTEST:

Finance Officer

(SEAL)

Doyle Estes

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

On this, the _____ day of April, 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 to do so, 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

My Commission Expires:

(SEAL)

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

On this, the _____ day of April, 2004, before me, the undersigned officer, personally appeared Doyle Estes, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

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

Notary Public

My Commission Expires:

(SEAL)

Prepared By: CITY ATTORNEY’S OFFICE