

MEMORANDUM OF UNDERSTANDING

This Agreement is made and entered into by and between the **CITY OF RAPID CITY**, a municipal corporation, located at 300 Sixth Street, Rapid City, South Dakota, 57701, and herein after called the "City," and **JAMES N. CARPENTER** and **JAMI S. CARPENTER**, husband and wife, of 4144 Haines Avenue, South Dakota, 57701, herein after called the "Carpenters."

Recitals

WHEREAS, the Carpenters own the following described property:

Lot A of Tract A of Block Three (3) of McMahon Industrial Park No. 2, Section 24, Township 2 North, Range 7 East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota; and

WHEREAS, the City plans to improve and widen Haines Ave. as it abuts the above described property; and

WHEREAS, the City will require additional right of way from the Carpenters in order to improve and widen Haines Ave. as it abuts their property; and

WHEREAS, the Carpenters are willing to donate to the City the additional right of way required in the form of an H Lot in exchange for the City agreeing to grant them certain concessions.

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

1. Upon the execution of this agreement, Carpenters will grant to the City a deed for Lot H2 as shown on Exhibit A which has been attached hereto and incorporated herein by this reference.

2. In exchange for the Carpenters donating to the City the additional right of way, the City shall install, at its own expense, a sewer main crossing from the west side of Haines Ave. to the new property line of Lot A of Tract A on the east side of Haines.

3. The City shall not require an initial water or sewer hookup fee for Lot A of Tract A.

4. The City will also agree to have the Public Works Director grant an exception to the City's Street Design Criteria Manual so that the Carpenters can take access to Haines Ave. from a point beginning at the southern property line of Lot A of Tract A.

5. The City will be responsible for the costs associated with the construction of the Haines Avenue improvements.

6. The City shall perform all work in a workmanlike manner and as nearly as reasonably possible to return the surface of the ground to the condition as it existed prior to the granting of this Agreement. This Agreement shall include the right to do those things reasonably necessary to effectuate its purpose.

7. The City agrees that the consideration for this agreement is transferable by the Carpenters to any successors in interest who purchase the above described property prior to the City performing its obligations under the Agreement.

8. This Agreement constitutes the entire agreement of the parties. No other writings or negotiations are part of this Agreement.

9. The parties rights and obligations under this Agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota. Any dispute concerning this Agreement shall be litigated, and venued, in the Circuit Court of the Seventh Judicial Circuit for the State of South Dakota, located in Rapid City, Pennington County, South Dakota.

Dated this ___ day of January, 2005.

CITY OF RAPID CITY

Jim Shaw, Mayor

ATTEST:

James F. Preston, Finance Officer

James N. Carpenter

Jami S. Carpenter

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

ON THIS ___ DAY OF, _____, 2005, 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 ___ DAY OF, _____, 2005, before me, the undersigned officer, personally appeared James N. Carpenter and Jami S. Carpenter, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they 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

