

**AGREEMENT TO ALLOW A PORTION OF MINNESOTA STREET TO
ENCROACH ON A CITY OWNED RESERVOIR LOT**

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 (herein after “City”) and 3T’s Land Development, LLC located at 325 Mt. Rushmore Rd., Custer, South Dakota, 57730 (herein after “Developers”).

WHEREAS, Developers are requesting to extend Minnesota Street within the City of Rapid City; and

WHEREAS, due to the terrain in the area, the Developers have proposed extending the street over a portion of a City reservoir lot; and

WHEREAS, the City would benefit from the extension of the street by improved access to the reservoir lot.

NOW THEREFORE, the parties agree as follows:

1. The City will allow the developer to construct an extension to Minnesota Street that occupies a portion of City property that is currently used as a reservoir and is legally described as:

Tract R located in the Northwest One Fourth (NW $\frac{1}{4}$) of the Southwest One Fourth (SW $\frac{1}{4}$) of Section Thirteen, Township One North (T1N), Range Seven East (R7E), Black Hills Meridian, Rapid City, Pennington County, State of South Dakota.

2. The right of way for Minnesota Street will be allowed to occupy the City property along the City property’s southern lot line to within One (1) foot of the south side of the existing chain link fence. In addition, at a point approximately Sixty (60) feet east of the southwest corner of the property, along the new right of way line one foot south of the fence, a point of intersection can be proposed that would extend northwest to a point along the western property boundary approximately twenty eight feet (28) feet north of the existing southwest corner.

3. The Developers agree to reset the existing chain link fence to a distance of one foot within the new lot line. Depending on the final reservoir lot configuration, a second access gate may be necessary along the new south lot line in the vicinity of the proposed southwest corner. The Developers agree to install a second gate if requested to do so by the City. All costs associated with relocating the fence and installing a second gate will be at the expense of the Developers.

4. The vertical grade of the proposed street extension shall not impact the existing lot grade to such an extent that the lot grade will not be steeper than 5% toward the new right of way line. In addition, the grades shall be such that the existing valve

vault will not be impacted. The Water Department reserves the right to review the proposed grading plans prior to final approval of the new Minnesota Street right of way, street alignment and grade. The chain link fence shall be removed and reset as necessary to complete grading. All costs shall be the responsibility of the developer.

5. The Developer shall provide a driveway approach for the gate entrances to the reservoir at no cost to the City.

6. The Developer shall provide sidewalk and surface restoration, including revegetation along the reservoir lot at no cost to the City.

7. The Developer will grant to the City a twenty (20) foot access easement along the south lot line of the lot immediately to the north of the City's reservoir lot (currently shown to be Lot 34). The purpose of this easement is to allow the City access to the drainage area north of the reservoir where the existing overflow from the reservoir discharges.

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

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 venued in the Circuit Court for the Seventh Judicial Circuit of the State of South Dakota, located in Rapid City, Pennington County, South Dakota.

Dated this ___ day of _____, 2005.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

3T's LAND DEVELOPMENT, LLC.

By: _____

Its: _____

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 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 as such Mayor and Finance Officer of the City of Rapid City.

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

[SEAL]

Notary Public, State of South Dakota
My Commission Expires: _____

STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF PENNINGTON)

On this ____ day of _____, 2005, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of 3T's Land Development, LLC, and that as such, being duly authorized so to do, executed the foregoing instrument by signing the name of 3T's Land Development by himself as its _____.

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

[SEAL]

Notary Public, State of South Dakota
My Commission Expires: _____