

AGREEMENT BETWEEN THE CITY AND DEVELOPER FOR SHARING THE COST OF COMPLETING CERTAIN REPAIRS TO MIDDLE VALLEY DRIVE.

This Agreement is made and entered into between the City of Rapid City, a municipal corporation located at 300 Sixth Street, Rapid City, SD 57701, herein after referred to as the "City" and Pat Tlustos of PO Box 2624, Rapid City, SD 57709, herein after referred to as the "Developer."

WHEREAS, the Developer was responsible for constructing Middle Valley Drive within the City of Rapid City; and

WHEREAS, the trenches that were dug in order to install the utilities under the street were not properly compacted prior to the street being built; and

WHEREAS, the deficient compaction has caused the street to settle unevenly; and

WHEREAS, the uneven settling needs to be repaired; and

WHEREAS, at the time the street was constructed the City was responsible for conducting the required compaction tests; and

NOW THEREFORE, the City and Developer agree as follows:

1. The Developer will hire Hills Materials Company to do the work necessary to repair the street as shown on the "Revised Quote" which has been attached hereto as Exhibit "A" and which has been incorporated herein by this reference.
2. The Developer will pay Hills Material for the work shown in Exhibit "A." The City will reimburse the Developer for One Third (1/3) of the actual costs paid to Hills Material for the work shown on Exhibit "A." Upon completion of the work contemplated in this Agreement, the Developer shall certify to the City that such improvements have been completed and shall certify the amount of money disbursed therefore. The City shall have the right to require reasonable documentation to establish that the amounts set forth in the Developer's request for reimbursement have, in fact, been disbursed to Hills Material to complete this project.
3. The Developer agrees not to expand the scope of the work that is to be done under this Agreement beyond the work that is included in Exhibit "A" without getting an amendment to the Agreement approved by the City Council.
4. This Agreement constitutes the entire agreement of the parties. No other writings or negotiations are part of this document.
5. 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

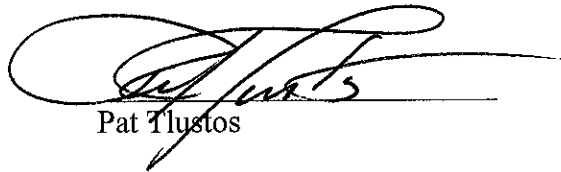
Circuit of the State of South Dakota, located in Rapid City, Pennington County, South Dakota.

CITY OF RAPID CITY

Jim Shaw, Mayor

ATTEST:

James Preston, Finance Officer


Pat Tlustos

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]

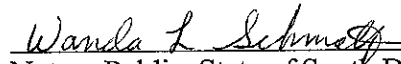
Notary Public, State of South Dakota
My Commission Expires: _____

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

On this 5th day of October, 2005, before me, the undersigned officer, personally appeared Pat Tlustos 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.

[SEAL]



Notary Public, State of South Dakota
My Commission Expires: 12.23.10


HILLS MATERIALS COMPANY

 PO Box 2320
 RAPID CITY, SOUTH DAKOTA 57709-2320

September 23, 2005

TO: Mr. Pat Tlustos
 Northwestern Engineering
 P.O. Box 2624
 Rapid City, SD 57709

RE: **“Revised Quote”**
 Middle Valley Drive
 Rapid City, South Dakota
 Edge Milling, Leveling, Adjust Manholes, & 1-inch Asphalt Overlay

Dear Pat:

We are pleased to present the following quotation for the referenced project.

We will furnish all labor, material, and equipment to complete the following items of work

| <u>Item</u> | <u>Description</u> | <u>Quantity</u> | <u>Unit Price</u> | <u>Extension</u> |
|-------------|---------------------------|-----------------|-------------------|------------------|
| 1 | Mobilization | 1 EA | \$1,025.00/LS | \$ 1,025.00 |
| 2 | Under Drain deleted | ----- | ----- | ----- |
| 3 | Edge Milling | 1,413 SY | \$ 3.10/SY | \$ 4,380.30 |
| 4 | Asphalt Leveling | 1 LS | \$2,175.00/LS | \$ 2,175.00 |
| 5 | Asphalt Overlay, 1-inch | 2,613 SY | \$ 3.75/SY | \$ 9,798.75 |
| 6 | Traffic Control & Testing | 1 LS | \$ 975.00/LS | \$ 975.00 |
| 7 | Adjust Manholes | 2 EA | \$ 260.00/EA | \$ 520.00 |
| TOTAL | | | | \$18,874.05 |

NOTES:

- 1) Pricing is based on estimated quantities. Billing will be based on applying the unit prices quoted above to the actual quantities installed.
- 2) Prices include State Excise Tax.
- 3) Prices do not include Bond. Add 1% for Bond, if required.
- 4) Asphalt price is based on PG64-22 binder for Class G-2 AC Composite.
- 5) Prices do not include permits. The owners to secure permits if required.
- 6) Prices include asphalt density testing as required by the City.
- 7) Manhole adjustments include new concrete rings only. Chimney seals are not included, if they are required by the City and adjustment (substantial increase) in the unit price will be necessary.
- 8) Price does not include prime asphalt or flush seal asphalt.
- 9) Item No.6 includes signing, flagging & asphalt density testing of the overlay.

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Middle Valley Drive-Overlay
September 23, 2005

10) Prices are only good for construction year 2005.

Prices set forth on this quotation are firm for a period of 14 days from date of quotation. All prices at the end of 14 days are subject to the review of Hills Materials Company.

All accounts are due and payable upon receipt of invoice. A service charge of 1-1/2% per month will be added on any unpaid amount thirty (30) days after date of invoice.

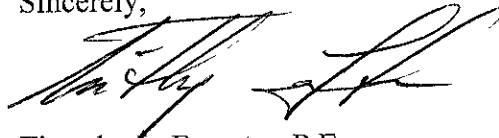
Acceptance:

By: _____

Date: _____

TLF/smc

Sincerely,



Timothy L. Foerster, P.E.
Engineer/Estimator