

AGREEMENT TO SHARE WATER MAIN CONSTRUCTION COSTS

This Agreement is made and entered into by and between the **CITY OF RAPID CITY**, a municipal corporation, hereafter called the “City,” and the **BWWW ENTERPRISES, LLC**, a South Dakota Limited Liability Corporation, herein after referred to as the “Developer”.

Recitals

WHEREAS, the Developer needs to construct a water main that is sufficient to meet the required fire flows for its property located at 1655 South Valley Drive and which is legally described as:

Tract C of the SE ¼ of the SE ¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, State of South Dakota; and

WHEREAS, it would be beneficial to the City to have the water main extended in a manner and location that would facilitate future expansion in the area; and

WHEREAS, the Developer could construct a water main that would provide sufficient fire flows to serve its property in a location that would be less expensive than the location requested by the City; and

WHEREAS, the estimated cost of constructing the water main in the location requested by the City is \$100,000; and

WHEREAS, in consideration of the increased cost of constructing the water main in the manner and location the City has requested, the parties have agreed to share the cost of designing and constructing the water main.

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

1. The Developer agrees to contract with a professional engineer to design and prepare plans for the water main extension project. The plans shall be reviewed and approved by the City. The Developer will pay for the professional engineering services.
2. The City agrees to prepare the contract documents and detailed specifications for the project.
3. The City agrees to advertise and bid the project as well as manage the construction component of the project.
4. The project construction costs are to be split between the Developer and the City. The Developer shall pay the City \$35,000 for its share of the construction costs. The City shall pay the balance of the construction costs (estimated at \$65,000). The City will pay the contractor for all work associated with constructing the water main and will bill the Developer for \$35,000 upon the completion of the water main installation. The Developer shall remit payment to the City within 30 days of billing.

5. The provisions contained within the "Contract for Private Development Tax Increment District Number Forty Eight" are incorporated into this agreement by reference.

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

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

BWWW ENTERPRISES, LLC

By:_____
Rebecca A. Wagner, President

By:_____
Wesley W. Wood, Vice President

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2006, 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)

State of South Dakota)
 ss.
County of Pennington)

On this ____ day of _____, 2006, before me, the undersigned officer, personally appeared Rebecca A. Wagner and Wesley W. Wood, who acknowledged themselves to be the President and Vice President of BWWW Enterprises, LLC., and that as such, being duly authorized to do so, executed the foregoing instrument by signing the name of BWWW Enterprises, LLC.

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

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

(SEAL)

Prepared By: CITY ATTORNEY'S OFFICE