

AGREEMENT FOR COLLECTION AND DISBURSEMENT OF
WATER MAIN CONSTRUCTION FEES

THIS AGREEMENT is entered into this _____ day of _____, 2006, by and between Associated Design Inc., 3101 Lien Street, Rapid City, SD 57702, hereinafter referred to as "Developer", and the City of Rapid City, a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South Dakota, 57701, hereinafter referred to as "City".

WHEREAS, water mains have been extended along portions of Lien Street by Developer under Development Project No. DEV04-716, Lien Street Water Main Extension, as shown on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the total project cost paid by Developer to complete this water main extension project was \$70,366.77 which included \$66,999.29 in construction costs and \$3,367.48 in design costs; and

WHEREAS, the Developer's obligation for the Lien Street Water Main Extension, Development Project No. DEV04-716, was determined to be \$11,797.20; and

WHEREAS, the City of Rapid City reimbursed the Developer \$10,665.81 for the oversize portion of the water main; and

WHEREAS, the balance of project costs totaling \$58,569.57 may be proportioned to the properties identified in Exhibit A according to the benefits to accrue to such property before such property shall be served with such facilities; and

WHEREAS, in the event that the Rapid City Common Council establishes a water utility construction fee for the above-described water main extension project, an amount not to exceed \$47,903.76 may be collected on the Developer's behalf by the City from the identified benefiting properties that have currently not connected, and an amount not to exceed \$10,665.81 may be collected by and for the City from the identified benefiting properties that have not currently connected; and

NOW THEREFORE, in consideration for the mutual covenants and conditions contained herein, it is agreed by the parties as follows:

1. The City hereby agrees to present a proposed Water Utility Construction Fee Resolution, which would establish the fees to be levied against the identified benefiting properties as shown on Exhibit A.
2. In the event that the Water Utility Construction Fee Resolution is established by the Common Council, the City hereby agrees to collect the construction fees from the identified properties at the time the properties connect to the water main constructed as part of this project in accordance with the Water Utility Construction Fee Resolution.

3. The City agrees to reimburse the Developer for the base portion of the water main as the fees as collected by the City within thirty (30) days of receipt of the fee by the City. In no case will the Developer be reimbursed in excess of \$47, 903.76. The payments to the Developer will cease when and if a total of \$47,903.76 is reimbursed to the Developer.
4. The Developer hereby agrees to furnish the City Finance Office with a current mailing address and update that address as is needed in order to facilitate disbursement of collected construction fees.
5. This Agreement does not bind the City to reimburse Developer for the water extension project. Rather, by this Agreement the option of imposing water construction fees upon the identified benefiting properties will be presented to the City Council for consideration.
6. The City may undertake any legal or equitable action available to enforce the provisions of this Agreement in addition to any remedy provided herein. In the event the City is required to undertake any action to enforce the terms of this Agreement. Developer agrees the City may recover from the Developer the City's reasonable expenses, including attorney's fees incurred with respect to such action.
7. In the event that any section(s), or provision(s) of this Agreement is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision(s) of this Agreement if it can be given effect without the invalid section(s) or provision(s).
8. The parties agree that the terms of this Agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.
9. The parties agree that this writing constitutes the entire Agreement between them and that there are no other oral or collateral agreements or understandings of any kind or character except those contained herein. No modification or amendment to this Agreement shall be valid, unless evidenced by a writing signed by the parties hereto.

Dated this _____ day of _____, 2006.

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 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, South Dakota
My Commission Expires:

(SEAL)

EXHIBIT A

Lien St. Water Main Extension Benefiting Properties



Legend

-  Adjacent Benefiting Property
-  Parcels
-  Oversize Benefiting Property
-  Project Water Main

