

Prepared by:
City Attorney's Office and
Public Works Department
300 Sixth Street
Rapid City, SD 57701

AGREEMENT FOR OVERSIZE WATER TRANSMISSION MAIN

THIS AGREEMENT is made and entered into by and between the CITY OF RAPID CITY, a municipal corporation, hereinafter referred to as the "City," and Dakota Craft Business Properties, LLLP, Dakota Craft Drive, Rapid City, South Dakota, 57703, hereinafter referred to as the "Developer".

WHEREAS, the Developer desires to construct approximately 1,200 linear feet of 12" diameter water transmission main to provide water service and fire protection for the Developer's building supply facility located at 5406 Old Folsom Road, Rapid City, South Dakota 57703; and

WHEREAS, the Developer's property resides with the City of Rapid City; and

WHEREAS, the City has requested the Developer construct a 12" water transmission main rather than an 8" water main, which is the minimum size required to meet the Developer's needs. The 12" water transmission main will allow future water main extension to the south and east for future City service areas; and

WHEREAS, it is in the City's interest to have the Developer construct the 12" water transmission main; and

WHEREAS, the Developer has submitted a preliminary drawing and a corresponding cost estimate for the requested water transmission main. Said drawing and estimate shall be the basis of this Agreement and is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, additional engineering costs for construction observation for the 12" water transmission main have been established on a time and materials basis with a maximum not to exceed eight thousand four hundred eighteen Dollars (\$8,418.00). Specifically Soil Testing and Resident Project Representative, refer to Exhibit B; and

WHEREAS, the estimated City oversize cost associated with constructing the 12" water transmission main in the manner and location requested by the City is approximately ten (10) percent of the total 12" water transmission main construction cost or approximately \$15,000. See Exhibit A; and

WHEREAS, additional and unforeseen costs may surface during construction that requires additional expenditures a contingency has been established at two thousand five hundred Dollars (\$2,500.00).

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 hereby agrees to contract with a professional engineer to design the water transmission main for the Developer. The water transmission main plans shall be approved by the City prior to starting construction.
2. The Developer hereby agrees to contract with a professional engineer to provide construction observation services for the water transmission main.
3. The Developer hereby agrees to prepare all contract documents and detailed specifications for the water transmission main.
4. The Developer hereby agrees to solicit a minimum of three quotes for the project as well as manage the construction components of the water transmission main. The City's cost share shall be considered as "oversize" and therefore the project does not need to be publicly bid.
5. The Developer hereby agrees to contract with a professional engineer to perform construction observation performed by Ferber Engineering. The City shall be reimburse the Developer for these services to an amount not to exceed eight thousand four hundred eighteen Dollars (\$8,418.00). Specifically Soil Testing and Resident Project Representative, refer to Exhibit B; and
6. The Developer shall be responsible for all construction costs associated with the water transmission main. Principle components are approximately 1,200 feet of 12-inch water transmission main, fire hydrants, gate valves, and associated appurtenances.
7. The City shall concur in the award of the construction contract for the water transmission main project.
8. The City shall reimburse the Developer ten (10) percent of the total 12" water transmission main construction cost up to a maximum not to exceed of \$17,500. The \$17,500 is comprised of an estimated 10% cost share of \$15,000 and a \$2,500 contingency; contingency requires Public Works Director's authorization to use. See Exhibit A; and
9. The City's total cost share obligation for the project shall not exceed the following:

<u>\$ 8,418</u>	Additional engineering and construction observation costs. Actual cost to be furnished to the City by Developers Engineer after project acceptance. Cost shall not exceed amount indicated.
<u>\$ 15,000</u>	Ten (10) percent of the 12" water transmission main construction project costs (oversize). Actual cost to be furnished to the City by Developers Engineer after project acceptance. Cost shall not exceed amount indicated.
<u>\$ 2,500</u>	Contingency requires Public Works Director's authorization to use.
\$ <u>25,918</u>	Total

10. The City shall remit a payment of the above-identified costs to the Developer upon City acceptance of the 12" water transmission main project.
11. The City shall make payment to the Developer within 45 calendar days of receipt of documentation for payment and in accordance with this Agreement.
12. The Developer agrees to construct the 12" water transmission main and have all identified permanent utility easement or access easements recorded at the Register of Deeds Office for the water transmission main prior to City acceptance of the 12" water transmission main.
13. 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).
14. 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.
15. 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.

CITY OF RAPID CITY

 Mayor

ATTEST:

 Finance Officer

ALAN THORNBURG, GP
 DAKOTA CRAFT BUSINESS PROPERTIES, LLLP

 BY: _____

ITS: _____

State of South Dakota)
 ss.

County of Pennington)

On this the ____ day of _____, 2006, before me, the undersigned officer, personally appeared Alan Hanks 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 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 _____, who acknowledged themselves to be the _____ of RONALD SHAPE, and that as such, being duly authorized to do so, executed the foregoing instrument by signing the name of RONALD SHAPE.


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

Notary Public, South Dakota
My Commission Expires:

(SEAL)


EXHIBIT A

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ENGINEERS ESTIMATE OF PROBABLE CONSTRUCTION COST* - TOTAL PROJECT					
		PROJECT: Dakota Craft Water Line Extension CLIENT: Dakota Craft Business Properties, LLP PROJECT #: 507-120 DATE PREPARED: 6/6/08 1:59 PM ESTIMATOR: David Lowe, E.I.			
		ITEM NO.	DESCRIPTION OF ITEM	QUANTITY	UNIT
1	MOBILIZATION	1	LS	\$10,000.00	\$10,000.00
2	INCIDENTAL WORK	1	LS	\$8,000.00	\$8,000.00
3	1.5" COPPER SERVICE	430	LF	\$16.73	\$7,193.90
4	8" CERTA LOK PIPE	227	LF	\$30.43	\$6,907.61
5	12" PVC WATER MAIN	1189	LF	\$33.00	\$39,237.00
6	12" GATE VALVE W/BOX	3	EA	\$3,200.00	\$9,600.00
7	1.5" TAPPING SADDLE & CORP STOP	1	EA	\$281.94	\$281.94
8	1.5" CURB STOP & BOX	1	EA	\$267.07	\$267.07
9	8" X 6" REDUCER	1	EA	\$309.76	\$309.76
10	8" HIGH DEFLECTION COUPLING	2	EA	\$224.00	\$448.00
11	12" HIGH DEFLECTION COUPLING	7	EA	\$278.34	\$1,948.38
12	12" X 12" X 6" TEE	3	EA	\$639.50	\$1,918.50
13	12" X 12" X 8" TEE	1	EA	\$741.59	\$741.59
14	12" 45 DEGREE BEND	2	EA	\$550.84	\$1,101.68
15	12" M/ PLUG	1	EA	\$275.00	\$275.00
16	FIRE HYDRANT WAUX VALVE, BOX & LEAD	4	EA	\$3,300.00	\$13,200.00
17	CONNECT TO EXISTING WATER MAIN	1	EA	\$781.31	\$781.31
18	CONNECT TO EXISTING WATER SERVICE	1	EA	\$260.00	\$260.00
19	WATER MAIN ENCASEMENT	40	LF	\$34.88	\$1,395.20
20	TYPE I BEDDING MATERIAL	50	T	\$15.67	\$783.50
21	TYPE II FOUNDATION MATERIAL	50	T	\$18.78	\$939.00
22	REMOVE ASPHALT PAVEMENT	64	SY	\$4.38	\$280.32
23	REMOVE & RESET BARBED WIRE FENCE	10	LF	\$2.53	\$25.30
24	REMOVE AND RESET SIGN	1	EA	\$126.78	\$126.78
25	AC OVERLAY, CLASS G, TYPE I	8	T	\$85.00	\$680.00
26	SEEDING, FERTILIZING, MULCHING,	1.5	ACRE	\$1,569.38	\$2,354.07
27	RAILROAD BORE	50	LF	\$700.00	\$35,000.00
28	TEMPORARY EROSION CONTROL	1	LS	\$2,000.00	\$2,000.00
	SUBTOTAL				\$146,050.91
	CONTINGENCY			5.00%	\$7,302.55
	TOTAL				\$153,353.46

*Ferber Engineering has no control over the cost or availability of labor, equipment or materials nor over market conditions. Ferber Engineering makes no warranty, expressed or implied, that the cost of the work will not vary from this estimate.

EXHIBIT A

ENGINEERS ESTIMATE OF PROBABLE CONSTRUCTION COST* - TOTAL PROJECT					
		PROJECT: Dakota Craft Water 8" Water Main CLIENT: Dakota Craft Business Properties, LLP PROJECT #: J97-120 DATE PREPARED: 6/6/98 2:00 PM ESTIMATOR: David Lowe, E.I.			
		ITEM NO.	DESCRIPTION OF ITEM	QUANTITY	UNIT
1	MOBILIZATION	1	L.S.	\$10,000.00	\$10,000.00
2	INCIDENTAL WORK	1	L.S.	\$8,000.00	\$8,000.00
3	1.5" COPPER SERVICE	430	LF	\$16.23	\$7,159.90
4	8" CERIALOK PIPE	227	LF	\$38.43	\$8,603.61
5	8" PVC WATER MAIN	1189	LF	\$27.00	\$32,103.00
6	8" GATE VALVE W/ BOX	3	EA	\$1,500.00	\$4,500.00
7	1.5" TAPPING SADDLE & CORP STOP	1	EA	\$231.94	\$231.94
8	1.5" CURB STOP & BOX	1	EA	\$267.07	\$267.07
9	8" X 6" REDUCER	1	EA	\$309.76	\$309.76
10	12" X 8" REDUCER	1	EA	\$475.00	\$475.00
11	8" HIGH DEFLECTION COUPLING	2	EA	\$224.00	\$448.00
12	8" HIGH DEFLECTION COUPLING (OVERSIZE)	7	EA	\$224.00	\$1,568.00
13	8" X 8" X 6" TEE	7	EA	\$457.00	\$3,199.00
14	8" X 8" X 8" TEE	11	EA	\$308.00	\$3,388.00
15	8" 45 DEGREE BEND	2	EA	\$308.00	\$616.00
16	8" MJ PLUG	1	EA	\$200.00	\$200.00
17	FIRE HYDRANT WAUX VALVE, BOX & LEAD	4	EA	\$3,300.00	\$13,200.00
18	CONNECT TO EXISTING WATER MAIN	1	EA	\$781.31	\$781.31
19	CONNECT TO EXISTING WATER SERVICE	1	EA	\$200.00	\$200.00
20	WATER MAIN ENCASEMENT	99	LF	\$34.58	\$3,423.42
21	TYPE I BEDDING MATERIAL	50	T	\$15.17	\$758.50
22	TYPE II FOUNDATION MATERIAL	50	T	\$18.78	\$939.00
23	REMOVE ASPHALT PAVEMENT	64	SY	\$4.38	\$280.32
24	REMOVE & RESET BARBED WIRE FENCE	10	LF	\$2.53	\$25.30
25	REMOVE AND RESET SIGN	1	EA	\$125.78	\$125.78
26	AC OVERLAY, CLASS G, TYPE I	8	T	\$95.80	\$766.40
27	SEEDING, FERTILIZING, MULCHING,	1.5	ACRE	\$1,569.38	\$2,354.07
28	RAILROAD BORE	50	LF	\$700.00	\$35,000.00
29	TEMPORARY EROSION CONTROL	1	L.S.	\$2,000.00	\$2,000.00
	SUBTOTAL				\$132,545.76
	CONTINGENCY			1.66%	\$6,627.25
	TOTAL				\$139,173.01

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Ferber Engineering Company, Inc.

PROJECT: W08-1734 Dakota Craft Water Main Extension - Construction Related Services
 CLIENT: Dakota Craft Business Properties LLLP
 LOCATION: Old Folsom Road
 ADDRESS: Old Folsom Road
 DATE PREPARED: August 21, 2008
 ESTIMATOR: DPF, PE/LS

Task Description	President Dan Ferber PE/LS \$100.00	PM Dave Muck PE/LS \$90.00	PM John Van Beek PE \$90.00	GIS Analyst Linda Foster GISP \$60.00	EI \$55.00	Sr. Tech \$65.00	Tech \$40.00	Survey \$85.00	Drafting \$55.00	Clerical \$45.00	Direct Cost
Issue Addressed	2										
Big Opening	1										
Prepare and Distribute Bid Tabulation	1										
Prepare and Distribute Contract Documents	1										
Construction Administration - Observation	2										
Pre-construction Conference	4										
Shop Drawing Review	1						180				\$1,718.00
Soils Testing (AET)											\$300.00
Resident Project Representative											
Process Pay Requests	4										
Final Walk Through	4										
Contract Closeout	4								4		\$200.00
As-Built Drawings											
Total Hours	15	0	0	0	12	24	180	0	4	6	
Estimated Cost Subtotal	\$1,500.00				\$550.00	\$1,320.00	\$6,400.00		\$220.00	\$270.00	\$2,218.00
Project Subtotal											
Total Estimated Cost											

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EXHIBIT B

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