

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140
JPC
5-18-09

STATE OF SOUTH DAKOTA)
)SS. COVENANT AGREEMENT
COUNTY OF PENNINGTON)

This declaration of the covenant and agreement ("Agreement") is entered into this 8 day of MAY, 2009, by and between Robert G. Devries and Jane Devries of 4328 Red Cliff Terrace, Rapid City, SD 57702 (the "Devries") and the City of Rapid City ("City"), a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South Dakota, 57701.

The Devries hereby acknowledges that they are the owners of record of the property in Rapid City, South Dakota which is legally described as:

Lot F of Tract C of South Part of Lot 7, Red Cliff Terrace Subdivision, located in the SE1/4NW1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.

WHEREAS, the Devries have water and sewer service lines that cross adjoining property; and

WHEREAS, the property is not currently served by public water and sewer lines; and

WHEREAS, an adjacent landowner has granted the Devries a private water and sewer service line easement; and

WHEREAS, as a result of the easement, the water and sewer service lines will be located on adjacent properties; and

WHEREAS, the City's Standard Specifications do not allow service lines to cross over another lot unless an Exception has been granted; and

WHEREAS, it is the parties' intention that an exception be granted to allow the water and sewer lines to cross over adjoining property if the Devries agrees to certain stipulations.

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

1. The Devries hereby covenant and agree to consent to an assessed project to install conforming water and sewer service lines in the future.
2. The Devries hereby covenant and agree to defend, indemnify and hold the City harmless from all claims related to the non-standard service lines.
3. It is understood by the Devries that the City's primary consideration for the granting of the exception to the City's Standard Specifications on the above described property is the Devries' covenant and promise to complete the Agreement conditions outlined in paragraphs 1 and 2 above.
4. 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 without regard to the principles of conflict of laws. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court for the State of South Dakota, Seventh Judicial Circuit located in Rapid City, Pennington County, South Dakota.
5. 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 or its subdivision regulations in connection with this agreement, the undersigned, heirs, assigns, or successors in interest agree the City may recover from the owner of said property its reasonable expenses, including attorney's fees incurred with respect to such action.
6. All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of the Devries, and be considered as a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this Agreement recorded with the Pennington County Register of Deeds' Office pursuant to provisions of South Dakota statutes.
7. If any section(s), or provisions of this application is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision of this application if they can be given effect without the invalid section(s) or provisions.

Jane DeVries
 Jane DeVries

State of South Dakota)
)
 County of Pennington)
)

ss.

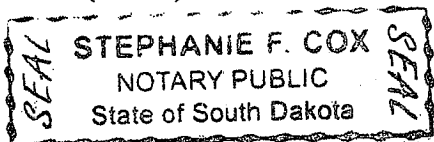
On this the 2 day of MAY, 2009, before me, the undersigned officer personally appeared Robert G. Devries and Jane Devries, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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

Stephanie F. Cox
 Notary Public, South Dakota

My Commission Expires: 2/28/2012

(SEAL)



If the landowner is a corporation, it has the power to enter into this agreement and its officers signing for it have full power and authority to do so.

Dated this 8 day of MAY, 2009.

CITY OF RAPID CITY

Alan Hanks, Mayor

ATTEST:

Finance Officer

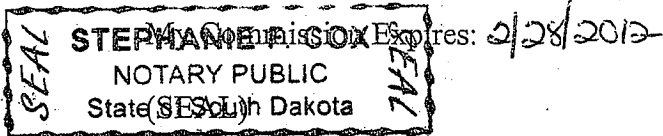
(SEAL)

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2009, 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 so to do, executed the foregoing 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.

Stephanee F Cox
Notary Public, South Dakota



Dated this 8 day of MAY, 2009.

Robert G. Devries
Robert G. Devries

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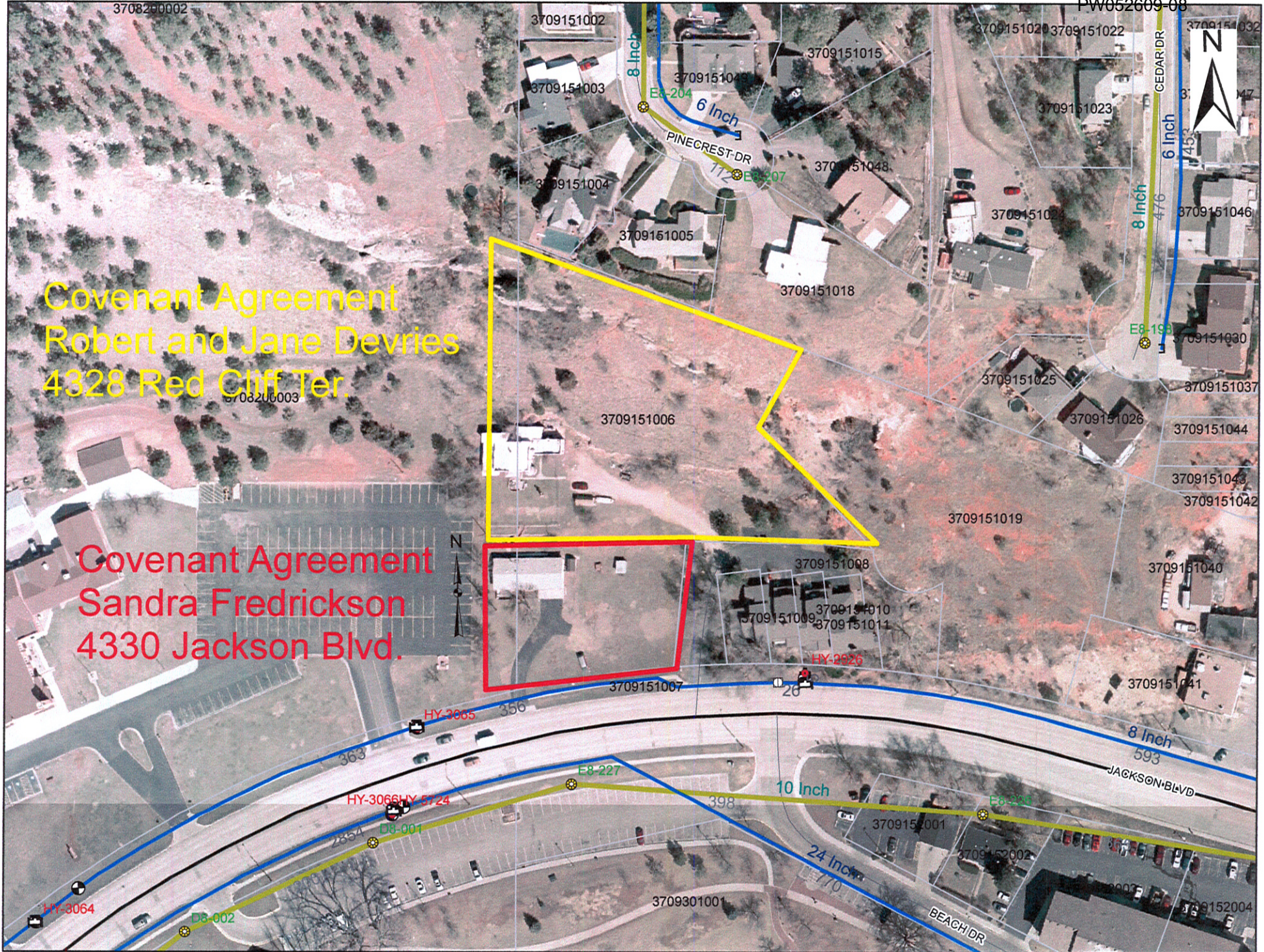
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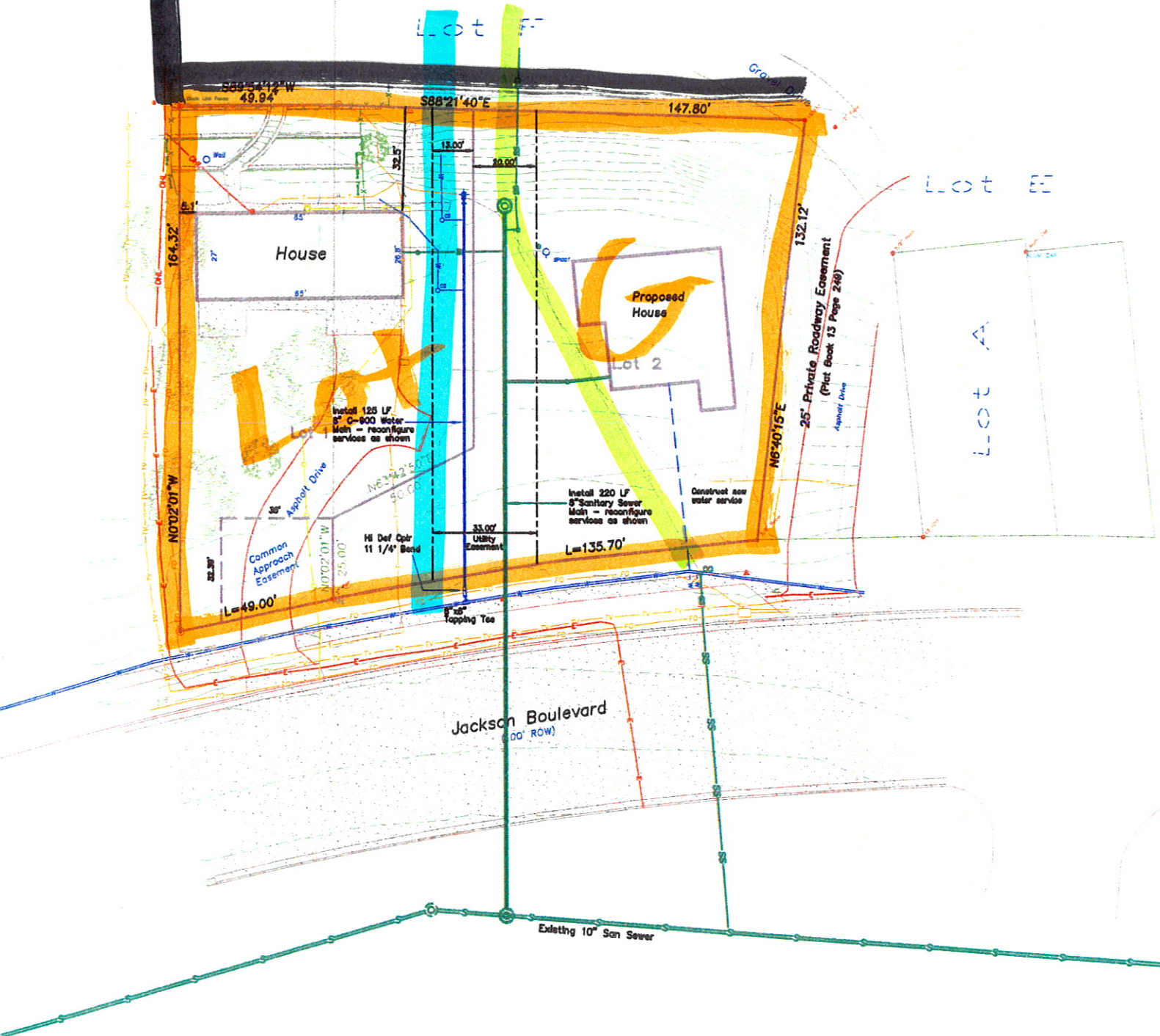
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Covenant Agreement
Robert and Jane Devries
4328 Red Cliff Ter.

Covenant Agreement
Sandra Fredrickson
4330 Jackson Blvd.



Lot F



Jackson Boulevard
(60' ROW)

Existing 10" San Sewer