

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

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND
CABELA'S WHOLESALE, INC. REGARDING PARKING AND ACCESS
AT THE VISITOR INFORMATION CENTER**

This Agreement is entered into by and between the City of Rapid City, 300 Sixth Street, Rapid City, SD 57701 (hereinafter referred to as "City"), and Cabela's Wholesale, Inc., One Cabela Drive, Sidney, NE 69160 (hereinafter referred to as "Cabela's").

WHEREAS, a parcel of land currently owned by the City may be transferred to Cabela's; and

WHEREAS, the Visitor Information Center occupies a portion of the land to be transferred to Cabela's; and

WHEREAS, Cabela's has agreed to allow the Visitor Information Center to remain in its current location and to transfer that portion of the land that the Visitor Information Center occupies back to the City. The proposed legal description of the Visitor Information Center lot is: Lot 1 of Tract 3 of Discovery Subdivision, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; and

WHEREAS, the Visitor Information Center currently utilizes a parking lot that will be on Cabela's land once the transfer of property has taken place; and

WHEREAS, the parties desire to enter into an agreement whereby the Visitor Information Center will continue to utilize the existing parking lot until Cabela's develops its property, at which time Cabela's agrees to construct at its own expense six parking spaces for recreational vehicles to the City's satisfaction on the Visitor Information Center property.

NOW THEREFORE, the parties agree as follows:

1. In exchange for the City approving Cabela's preliminary plat, the parties agree that the Visitor Information Center may continue to use the parking lot located on the property transferred to Cabela's until such time as Cabela's, or their heirs, assigns or successors in interest, further develop that property.

2. Upon the development of the property transferred to Cabela's, Cabela's agrees to construct six parking stalls adequate for recreational vehicles on the Visitor Information Center property, as depicted on Exhibit A attached hereto. Such stalls will be constructed solely at Cabela's expense and will be constructed to the City's reasonable specifications. The construction of the six parking stalls shall be a requirement for any further subdivision of the property in question. Upon completion of the stalls, Cabela's shall have no further obligations.

3. The following lot is covered by this agreement:

Tract 3 of Discovery Subdivision, located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4, Section 28, Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota.

4. The City shall be responsible for snow removal and maintenance of the parking lot on Cabela's land until such time that the balance of Tract 3 is developed or subdivided.

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 Developer 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 Cabela's, and shall 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 the provisions of South Dakota statutes.

7. 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 and litigated in the Circuit Court for the Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

Dated this ____ day of _____, 2009.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

CABELA'S WHOLESALE, INC.

By: _____

Its: _____

State of South Dakota)
 ss.
County of Pennington)

On this ____ 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 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.

Notary Public, South Dakota

My Commission Expires:

(SEAL)

State of Nebraska)
 ss.
County of Cheyenne)

On this the ____ day of _____, 2009, before me, the undersigned officer personally appeared _____, who acknowledged himself to be the _____ of CABELA'S WHOLESALE, INC., and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of CABELA'S WHOLESALE, INC.

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

Notary Public, Nebraska

My Commission Expires:

(SEAL)