

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

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

This declaration of the covenant and agreement ("Agreement") is entered into this _____ day of _____, 2009, by and between Kateland Development Co. ("Developer"), P.O. Box 2192, Rapid City, South Dakota, 57709, and the City of Rapid City ("City"), a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South Dakota, 57701.

Developer hereby acknowledges that it is the owner of record of the property in Rapid City, South Dakota which is legally described as:

Lot 1 of Block 1 of Kateland Subdivision located in Section 13, T2N,
R7E, BHM, Rapid City, Pennington County, South Dakota.

WHEREAS, Developer has applied for final plat approval; and

WHEREAS, Developer has completed all of the improvements required under the City's Subdivision Regulations with the exception of the sidewalk fronting the residential lots; and

WHEREAS, the Developer has requested that it be allowed to construct the remaining sidewalk in conjunction with the construction of a home on the lot; and

WHEREAS, it is the parties' intention that the final plat be approved if the Developer 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. Developer hereby covenants and agrees that the sidewalk shall be installed prior to the issuance of a Certificate of Occupancy for the home built on the lot.

2. It is understood by Developer that the City's primary consideration for the granting of the exception to the City's Subdivision Regulations on the above described property is Developer's covenant and promise to complete the Agreement conditions outlined in paragraphs 1 above.

3. 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 brought only in the Circuit Court for the State of South Dakota, Seventh Judicial Circuit located in Rapid City, Pennington County, South Dakota.

4. 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.

5. All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of Developer, 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.

6. 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.

7. 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.

CITY OF RAPID CITY

By: _____
Mayor

ATTEST:

Finance Officer

(SEAL)

KATELAND DEVELOPMENT CO.

By:_____

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 Release and Hold Harmless Agreement 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 the _____ day of _____, 2009, before me, the undersigned officer personally appeared _____, who acknowledged himself to be the _____ of Kateland Development Co., and that he, as such _____, being authorized so to do, executed the foregoing Covenant Agreement for the purposes therein contained by signing the name of Kateland Development Co. by himself as _____.

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

Notary Public, South Dakota

My Commission Expires:

(SEAL)