

PREPARED BY: City Attorney's 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 _____, 2010, by and between Randy and Barbara Hoover ("Owners"), 4117 Quiment Ct., Rapid City, SD 57702, and the City of Rapid City ("City"), a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South Dakota, 57701.

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

Lot 8 of Block 9, Red Rock Meadows Subdivision located in the NW1/4 of Section 28, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.

WHEREAS, Owners have experienced drainage problems on the property; and

WHEREAS, a private engineer has provided plans for a private storm sewer system to address the drainage issues; and

WHEREAS, the private storm sewer system will consist of a Nyoplast drain basin and approximately 20 linear feet of 8 inch N-12 pipe; and

WHEREAS, the plans call for the private storm sewer system to tie into a Type E inlet located in the right-of-way east of the described property; and

WHEREAS, it is the parties' intention that the Owners be allowed to tie into the City's storm sewer system if the Owners agree to certain stipulations.

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

1. Owners hereby covenant and agree that the private storm sewer system shall be wholly owned by Owners and maintained at the Owners' expense.

2. Owner hereby covenants and agrees to defend, indemnify and hold the City harmless from all claims related to the private storm sewer system.
3. It is understood by Owners that the City's primary consideration for allowing the private storm sewer system to be tied into the City's storm sewer system is Owners' covenant and promise to abide by 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 Owners, 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.

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 _____ day of _____, 2010.

CITY OF RAPID CITY

Alan Hanks, Mayor

ATTEST:

Finance Officer

(SEAL)

State of South Dakota)

ss.

County of Pennington)

On this the _____ day of _____, 2010, before me, the undersigned officer, personally appeared Alan Hanks and Pauline Sumption, 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.

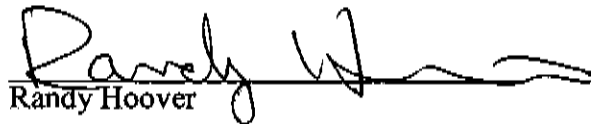
IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Public, South Dakota

My Commission Expires:

(SEAL)

Dated this 21 day of July, 2010.


Randy Hoover

State of South Dakota)

ss.

County of Pennington)

On this the 21st day of July, 2010, before me, the undersigned officer personally appeared Randy Hoover known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

