

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND DTH, LLC FOR  
OVERSIZE WATER TRANSMISSION MAIN AND CONSTRUCTION OBSERVATION  
FOR OVERSIZE PROJECT IMPROVEMENTS**

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 DTH, LLC, P.O. Box 330, Rapid City, South Dakota, 57709, hereinafter referred to as the "Developer."

WHEREAS, the Developer desires to construct a water main to provide water service and fire protection for the Developer's Wausau Supply project generally located in Section 21 east of Dyess Ave, Rapid City, South Dakota; and

WHEREAS, the Developer's property is located within the City of Rapid City; and

WHEREAS, the City and the Developer agree to construct a 16" water transmission main rather than an 8" water main, which is the minimum size required to meet the Developer's needs. The 16" water transmission main will allow future water main extension within the area in accordance with the City's Utility System Master Plan.

WHEREAS, it is in the City's interest to have the Developer construct the 16" water transmission main; and

WHEREAS, the Developer has submitted cost estimates to oversize the requested water transmission main and City staff has reviewed and concurs with the costs, and

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

1. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.
2. The City shall reimburse the Developer a maximum of \$136,816.00 for 16" water transmission main oversize. This maximum dollar amount is based upon lengths, quantities and costs provided in exhibit A. If actual lengths, quantities, and costs are less than specified in exhibit A, the amount of reimbursement shall be adjusted accordingly. The developer shall provide certified costs.
3. If the City secures funding for the 16" water line crossing from the southwest quadrant to the northeast quadrant at the intersection of Seger Dr. and Dyess Ave. (station 1+00 to 2+52.85 in exhibit A) prior to July 1, 2017, the city shall reimburse the developer for the full cost of the 16" water main within these specified limits. The developer shall provide certified costs for this work.

4. Prior to project acceptance the Developer shall submit documentation certifying actual costs incurred. If actual lengths, quantities, and costs are less than specified in exhibit A, the amount of reimbursement shall be adjusted accordingly.

5. Prior to project acceptance by the City, a warranty bond, or other equivalent surety, in an amount equivalent to ten percent (10%) of the total cost of the 16" water transmission main project/improvement shall be provided to the City to secure the warranty for a period of two years.

6. The City shall make payment to the Developer within 45 calendar days of the project being completed, tested, as-builts submitted, and project acceptance. Acceptance will be documented by issuance of an acceptance letter from the City.

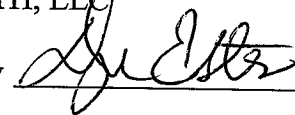
7. In the event that any section(s), or provision(s) of this Agreement is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision(s) of this Agreement if it can be given effect without the invalid section(s) or provision(s).

8. 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 Pennington County, South Dakota.

9. 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.

DTH, LLC

By



Its

MANAGER

STATE OF SOUTH DAKOTA )

)ss.

COUNTY OF PENNINGTON )

On this 9th day of JUNE, 2012, before me, the undersigned officer, personally appeared DOUG ESTES, who acknowledged him/herself to be the MANAGER of DTH, LLC, and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of DTH, LLC.

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





**EXHIBIT A**

**PROJECT:** Dyess Ave. Utility Extension - Phase 1  
 Original Water Main Scope  
 DDI PROJECT NO. 11-0611.1

**DATE:** 5/15/2012

BID ITEM	DESCRIPTION	UNIT	16" WATER MAIN STA 2+52.85 TO 24+06.17			8" WATER MAIN STA 2+52.85 TO 24+06.17		
			QUANTITY	UNIT COST	TOTAL COST	*QUANTITY	*UNIT COST	TOTAL COST
<b>GENERAL</b>								
1	MOBILIZATION	LS	1	\$ 4,000.00	\$ 4,000.00	1	\$ 4,000.00	\$ 4,000.00
2	MATERIAL TESTING	LS	1	\$ 4,000.00	\$ 4,000.00	1	\$ 4,000.00	\$ 4,000.00
3	CONSTRUCTION STAKING	LS	1	\$ 4,000.00	\$ 4,000.00	1	\$ 4,000.00	\$ 4,000.00
4	TRAFFIC CONTROL	LS	1	\$ -	\$ -	1	\$ -	\$ -
<b>SURFACING</b>								
5	ASPHALT, CLASS G, TYPE 1 (8") REPLACEMENT	TONS	0	\$ 120.00	\$ -	0	\$ 120.00	\$ -
6	BASE COURSE (8") REPLACEMENT	TONS	0	\$ 30.00	\$ -	0	\$ 30.00	\$ -
7	REMOVE AC PAVEMENT	SY	0	\$ 6.75	\$ -	0	\$ 6.75	\$ -
<b>STORM</b>								
8	18" CMP PIPE	LF	0	\$ 30.00	\$ -	0	\$ 30.00	\$ -
<b>WATER</b>								
9	16" PVC WATER MAIN C-905, DR 25	LF	2155	\$ 74.00	\$ 159,470.00	2155	\$ 32.50	\$ 70,037.50
10	8" PVC WATER MAIN C-900, CLASS 150	LF	20	\$ 32.50	\$ 650.00	20	\$ 32.50	\$ 650.00
11	16" X 16" X 6" TEE	EA	3	\$ 1,440.00	\$ 4,320.00	3	\$ 473.00	\$ 1,419.00
12	16" X 16" X 8" TEE	EA	1	\$ 1,500.00	\$ 1,500.00	1	\$ 515.00	\$ 515.00
13	16" X 14" REDUCER	EA	0	\$ 1,500.00	\$ -	0	\$ 730.00	\$ -
14	16" 90 DEGREE BEND	EA	0	\$ 1,500.00	\$ -	0	\$ 420.00	\$ -
15	16" 45 DEGREE BEND	EA	4	\$ 1,330.00	\$ 5,320.00	4	\$ 396.00	\$ 1,584.00
16	16" 11.25 DEGREE BEND	EA	2	\$ 1,154.00	\$ 2,308.00	2	\$ 351.00	\$ 702.00
17	16" TEE	EA	0	\$ 1,500.00	\$ -	0	\$ 515.00	\$ -
18	16" MJ PLUG	EA	1	\$ 640.00	\$ 640.00	1	\$ 200.00	\$ 200.00
19	8" MJ PLUG	EA	1	\$ 200.00	\$ 200.00	1	\$ 200.00	\$ 200.00
20	16" GATE VALVE	EA	5	\$ 6,740.00	\$ 33,700.00	5	\$ 1,420.00	\$ 7,100.00
21	8" GATE VALVE	EA	1	\$ 1,420.00	\$ 1,420.00	1	\$ 1,420.00	\$ 1,420.00
22	FIRE HYDRANT ASSEMBLY	EA	3	\$ 3,750.00	\$ 11,250.00	3	\$ 3,750.00	\$ 11,250.00
23	WATER MAIN ENCASEMENT	EA	2	\$ 1,250.00	\$ 2,500.00	2	\$ 1,250.00	\$ 2,500.00
24	CATHODIC PROTECTION	LS	1	\$ 20,000.00	\$ 20,000.00	1	\$ 20,000.00	\$ 20,000.00
25	TYPE III BEDDING MATERIAL	TONS	500	\$ 30.00	\$ 15,000.00	500	\$ 30.00	\$ 15,000.00
<b>GRADING</b>								
26	SEEDING, FERTILIZING & MULCHING	SY	4380	\$ 3.00	\$ 13,140.00	4380	\$ 3.00	\$ 13,140.00
<b>EROSION CONTROL</b>								
27	EROSION CONTROL WATTLES	LF	1200	\$ 6.50	\$ 7,800.00	1200	\$ 6.50	\$ 7,800.00
28	EROSION CONTROL BLANKET	SY	910	\$ 3.90	\$ 3,549.00	910	\$ 3.90	\$ 3,549.00
					<b>TOTAL</b>	<b>\$ 294,767.00</b>		
							<b>TOTAL</b>	<b>\$ 189,966.50</b>
							<b>OVERSIZE COST</b>	<b>\$125,700.50</b>

PROJECT: Dyess Ave. Utility Extension - Phase 1  
 Dyess - Seger Intersection Improvements  
 DDI PROJECT NO. 11-0611.1  
 DATE: 5/15/2012

BID ITEM	DESCRIPTION	UNIT	16" WATER MAIN STA 1+00 TO 2+52.85			8" WATER MAIN STA 1+00 TO 2+52.85		
			QUANTITY	UNIT COST	TOTAL COST	QUANTITY*	UNIT COST*	TOTAL COST
<b>GENERAL</b>								
1	MOBILIZATION	LS	1	\$ 1,000.00	\$ 1,000.00	1	\$ 1,000.00	\$ 1,000.00
2	MATERIAL TESTING	LS	1	\$ 1,000.00	\$ 1,000.00	1	\$ 1,000.00	\$ 1,000.00
3	CONSTRUCTION STAKING	LS	1	\$ 1,000.00	\$ 1,000.00	1	\$ 1,000.00	\$ 1,000.00
4	TRAFFIC CONTROL	LS	1	\$ 5,000.00	\$ 5,000.00	1	\$ 5,000.00	\$ 5,000.00
<b>SURFACING</b>								
5	ASPHALT, CLASS G, TYPE 1 (8") REPLACEMENT	TONS	28	\$ 120.00	\$ 3,360.00	28	\$ 120.00	\$ 3,360.00
6	BASE COURSE (8") REPLACEMENT	TONS	35	\$ 30.00	\$ 1,050.00	35	\$ 30.00	\$ 1,050.00
7	REMOVE AC PAVEMENT	SY	84	\$ 6.75	\$ 567.00	84	\$ 6.75	\$ 567.00
<b>STORM</b>								
8	18" CMP PIPE	LF	80	\$ 30.00	\$ 2,400.00	80	\$ 30.00	\$ 2,400.00
<b>WATER</b>								
9	16" PVC WATER MAIN C-905, DR 25	LF	156	\$ 74.00	\$ 11,544.00	156	\$ 32.50	\$ 5,070.00
10	8" PVC WATER MAIN C-900, CLASS 150	LF	0	\$ 32.50	\$ -	0	\$ 32.50	\$ -
11	16"X 16" X 8" TEE	EA	1	\$ 1,440.00	\$ 1,440.00	1	\$ 473.00	\$ 473.00
12	16" X 16" X 8" TEE	EA	0	\$ 1,500.00	\$ -	0	\$ 515.00	\$ -
13	16"X14" REDUCER	EA	1	\$ 1,600.00	\$ 1,600.00	1	\$ 730.00	\$ 730.00
14	16" 90 DEGREE BEND	EA	1	\$ 1,500.00	\$ 1,500.00	1	\$ 420.00	\$ 420.00
15	16" 45 DEGREE BEND	EA	0	\$ 1,330.00	\$ -	0	\$ 396.00	\$ -
16	16" 11.25 DEGREE BEND	EA	0	\$ 1,154.00	\$ -	0	\$ 351.00	\$ -
17	16" TEE	EA	1	\$ 1,800.00	\$ 1,800.00	1	\$ 515.00	\$ 515.00
18	16" MJ PLUG	EA	1	\$ 640.00	\$ 640.00	1	\$ 200.00	\$ 200.00
19	8" MJ PLUG	EA	0	\$ 200.00	\$ -	0	\$ 200.00	\$ -
20	16" GATE VALVE	EA	0	\$ 6,740.00	\$ -	0	\$ 1,420.00	\$ -
21	8" GATE VALVE	EA	0	\$ 1,420.00	\$ -	0	\$ 1,420.00	\$ -
22	FIRE HYDRANT ASSEMBLY	EA	1	\$ 3,750.00	\$ 3,750.00	1	\$ 3,750.00	\$ 3,750.00
23	WATER MAIN ENCASEMENT	EA	1	\$ 1,250.00	\$ 1,250.00	1	\$ 1,250.00	\$ 1,250.00
24	CATHODIC PROTECTION	LS	1	\$ 5,000.00	\$ 5,000.00	1	\$ 5,000.00	\$ 5,000.00
25	TYPE III BEDDING MATERIAL	TONS	1000	\$ 30.00	\$ 30,000.00	1000	\$ 30.00	\$ 30,000.00
<b>GRADING</b>								
26	SEEDING, FERTILIZING & MULCHING	SY	0	\$ 3.00	\$ -	0	\$ 3.00	\$ -
<b>EROSION CONTROL</b>								
27	EROSION CONTROL WATTLES	LF	0	\$ 6.50	\$ -	0	\$ 6.50	\$ -
28	EROSION CONTROL BLANKET	SY	0	\$ 3.90	\$ -	0	\$ 3.90	\$ -
					<b>TOTAL</b>	<b>\$ 73,901.00</b>		
							<b>OVERSIZE COST</b>	<b>\$11,116.00</b>