

Prepared by City Attorney's Office
 300 Sixth Street
 Rapid City, SD 57701
 (605) 394-4140

RELEASE OF COVENANT AGREEMENT BY THE CITY OF RAPID CITY

This Release of Covenant Agreement (the "Release") is made this _____ day of _____, 2013, by the **CITY OF RAPID CITY**, a South Dakota municipal corporation, of 300 Sixth Street, Rapid City, South Dakota, 57701 (the "City").

WHEREAS, the City and WAL-EAST DEVELOPMENT INC., ("Developer") entered into that certain Covenant Agreement dated the 3rd day of December, 2007 ("Covenant"), which is recorded on December 11, 2007, in the Office of the Pennington County Register of Deeds as Document R07-21615 at Book 175, Page 6787, of the Miscellaneous Real Estate Records; and

WHEREAS, the Covenant provided that Developer was required to pay a portion of the costs of street and utility improvements that benefited Developer's property; and

WHEREAS, the improvements contemplated by the Covenant have been completed; and

WHEREAS, the Developer made the required payment; and

WHEREAS, the Developer has requested the City execute this Release to aid it in clearing title to the Developer's property.

NOW THEREFORE, in consideration of the performance of the covenants and conditions contained in the Covenant, the City hereby releases and discharges the aforementioned Covenant on the following real property:

That portion of the North Half of the Northwest Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 26 in Township 2 North of Range 8 East of the Black Hills Meridian, in the City of Box Elder, Pennington County, South Dakota, lying north of the following: highway right of way, as shown on the plat filed in Highway Plat Book 1, Page 20, and as conveyed to Pennington County in Deed recorded August 11, 1926, in Deed Book 48, Page 421; Lot H1 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and Lot H2 of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, as shown on the plats filed in Highway Plat Book 2, Pages 120 and 121, and as conveyed to Pennington County in instrument recorded January 4, 1936, in Deed Book 56, Page 481; Lot H2 of the NW $\frac{1}{4}$, as shown on the plat filed in Highway Plat Book 2, Page 271, and as conveyed to the State of South Dakota in instrument recorded July 17, 1952, in Deed Book 96, Page 153;

and Lot H3 of the N $\frac{1}{2}$ NW $\frac{1}{4}$, as shown on the plat filed in Highway Plat Book 3, Page 239, and as conveyed to the State of South Dakota in instrument recorded September 2, 1961, in Deed Book 133, Page 196; EXCEPTING therefrom right of way for highway purposes through NW $\frac{1}{4}$ NW $\frac{1}{4}$, as shown on the plat filed in Highway Plat Book 2, Page 12, and as conveyed to Pennington County in instrument recorded April 25, 1932, in Deed Book 53, Page 506; EXCEPTING therefrom Lot H2 in the NW $\frac{1}{4}$, as shown on the plat filed in Highway Plat Book 11, Page 51, and as conveyed to the City of Box Elder in instruments recorded January 11, 2007, in Book 165, Page 5306 and February 5, 2007, in Book 166, Page 2275 and the North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 27 in Township 2 North of Range 8 East of the Black Hills Meridian, in the City of Box Elder, Pennington County, South Dakota; EXCEPTING therefrom Lot H1, as shown on the plat filed in Highway Plat Book 2, Page 271; and EXCEPTING therefrom Lot H2, as shown on the plat filed in Highway Plat Book 3, Page 240; and Tract A in the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 27 in Township 2 North of Range 8 East of the Black Hills Meridian, in the City of Box Elder, Pennington County, South Dakota, as shown on the plat filed in Plat Book 3, Page 216; EXCEPTING therefrom Lot H1, as shown on the plat filed in Highway Plat Book 2, Page 118; and EXCEPTING therefrom Lot H2, as shown on the plat filed in Highway Plat Book 3, Page 240; and the Northwest Quarter (NW $\frac{1}{4}$) of Section 27 in Township 2 North of Range 8 East of the Black Hills Meridian, in the City of Box Elder, Pennington County, South Dakota; EXCEPTING therefrom Tract C in the E $\frac{1}{2}$ W $\frac{1}{2}$, as shown on the plat filed in Plat Book 3, Page 216; and EXCEPTING therefrom Lot H1 in the SW $\frac{1}{2}$ NW $\frac{1}{2}$, as shown on the plat filed in Highway Plat Book 4, Page 96; and EXCEPTING therefrom that portion of Tract H lying in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, as shown on the plat filed in Plat Book 9, Page 208; and EXCEPTING therefrom Tract K in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, as shown on the plat filed in Plat Book 13, Page 201; and EXCEPTING therefrom Tract L in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, as shown on the plat filed in Plat Book 17, Page 5; and EXCEPTING therefrom that portion of Tract J-Revised lying in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, as shown on the plat filed in Plat Book 21, Page 39; and that portion of the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 27 in Township 2 North of Range 8 East of the Black Hills Meridian, in the City of Box Elder, Pennington County, South Dakota, lying north of Lots H1, H2, H3 and H4, as shown on the plats filed in Highway Plat Book 2, Page 272, in Highway Plat Book 3, Page 241 and in Highway Plat Book 4, Page 97; EXCEPTING therefrom that portion of Tract C lying in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, as shown on the plat filed in Plat Book 3, Page 216; and EXCEPTING therefrom Lot H3, as shown on the plat filed in Highway Plat Book 4, Page 97; and EXCEPTING therefrom that portion of Tract H lying in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, as shown on the plat filed in Plat Book 9, Page 208; and EXCEPTING therefrom Lot 1 of Tract J in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, as shown on the plat filed in Plat Book 15, Page 220; and EXCEPTING therefrom that portion of Tract J-Revised lying in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, as shown on the plat filed in Plat Book 21, Page 39.

Dated this _____ day of _____, 2013.

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

State of South Dakota)
) ss.
County of Pennington)

On this the _____ day of _____, 2013, before me, the undersigned officer, personally appeared Sam Kooiker 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 Release of Covenant 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.

(seal)

Notary Public, South Dakota
My Commission Expires: _____