

## LOAN AND INFRASTRUCTURE DEVELOPMENT AGREEMENT

This Agreement is made and entered into by and between the **CITY OF RAPID CITY**, a municipal corporation, hereafter called the "City," and **BGW DEVELOPMENT COMPANY, LLC**, hereafter called "BGW."

### Recitals

**WHEREAS**, the City has established an Infrastructure Development Partnership Fund (hereafter called the "Fund") to assist in providing adequate public improvements in areas of new development by financing the development of public improvements where such costs shall be repaid by the developer, BGW, and shall hereinafter be referred to as the "loan"; and

**WHEREAS**, BGW is the owner and developer of certain real property known as Red Rock Canyon Estates (hereafter called the "Development") located generally southwest of the City of Rapid City and north of the original Countryside Subdivision and more particularly described as follows:

The N1/2 and unplatted balance of NW1/4SE1/4, and unplatted balance of NW1/4SW1/4, and unplatted balance of NE1/4SW1/4, all in Section 29, T2N, R7E, BHM, Pennington County, South Dakota, together with easement appurtenant thereto for access and egress across N1/2SE1/4 and across SE1/4SE1/4 of Section 29, T1N, R7E, BHM, Pennington County, South Dakota, and Outlot A of Tract A of Countryside Subdivision, Pennington County, South Dakota;

and

**WHEREAS**, BGW has made application for the use of Infrastructure Development Partnership funds in connection with the development of the real property above described and, in particular, for water line and waste water line construction; and

**WHEREAS**, the Rapid City Infrastructure Development Partnership Review Committee has recommended approval of the application for a loan to BGW of \$870,773 from the Fund and the utilization of an additional sum of \$528,500 from the Fund upon certain terms and conditions hereafter set forth; and

**WHEREAS**, the parties hereto desire to enter into this Agreement to set forth the terms and conditions under which BGW will borrow \$870,773 from the Fund and utilize the additional sum of \$528,500 to be repaid from connection fees and the terms and conditions under which the public improvements will be constructed by the City and the costs thereof repaid by hookup fees charged to the BGW Development Project and other development in the area;

9. **Project Improvements.** All infrastructure project improvements constructed by the City under this Agreement shall be public in character and shall be conveyed to the City together with all easements and rights of way related thereto, upon substantial completion thereof. All such improvements and related easements and rights of way shall be conveyed and assigned to the City by deed or other appropriate conveyance, free and clear of all liens and encumbrances.

10. **Annexation of Development.** As a material consideration for the City to enter into this Agreement, BGW does hereby agree that before any loan proceeds are disbursed or construction begun on this project, BGW shall petition for annexation of the Development into the City of Rapid City and shall comply with all applicable requirements under law to accomplish annexation of the Development into the City of Rapid City.

11. **Connection Fees.** The parties agree that applicable connection fees based on final project costs for the sewer interceptor along Sheridan Lake Road and the oversize cost on the water transmission lines shall be payable prior to the issuance of the building permit.

12. **Funds Repaid from Connection Fees.** In addition to the loan from the Fund as provided in paragraph 1 hereof, the City shall also be entitled to utilize \$528,550 from the Fund for completion of the sewer interceptor line, which sum shall be repaid to the Fund through connection fees from both the Red Rock Canyon Estates and other development as may be served by the sewer interceptor located along Sheridan Lake Road.

13. **Further Assurances.** The parties agree to execute such other and further documents and instruments, not inconsistent herewith, as may be reasonably necessary to accomplish the intend and purpose of this Agreement.

14. **Modification.** This Agreement may be amended only by written agreement of the parties hereto.

15. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

DATED: \_\_\_\_\_, 2000.

CITY:

CITY OF RAPID CITY, a municipal  
corporation

BGW:

BGW DEVELOPMENT COMPANY, LLC

By \_\_\_\_\_  
Jim Shaw, Mayor

By \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
James F. Preston, City Auditor/Finance Officer