

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

LF121102-22

## AGREEMENT

This agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by and between Dan O'Brien, hereinafter called "Owner", and the City of Rapid City, a municipal corporation of the State of South Dakota, hereinafter called "City".

WHEREAS, Owner owns the property legally described as:

Lot 2 of Deadwood Avenue Business Park, NE1/4 of the NW1/4 of Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; and

WHEREAS, the owner has proposed to re-plat the property requiring the dedication of additional public right of way; and

WHEREAS, the additionally dedicated right of way will lay over a portion of a currently existing parking lot located upon proposed Lot 2; and

WHEREAS, the owner wishes to continue to use the currently existing parking lot; and

WHEREAS, the owner acknowledges that the dedicated right of way may be used at anytime for public purposes; and

WHEREAS the owner agrees to immediately cease using that portion of the parking lot that is covered by the right of way dedication upon notice from the City or any other authorized public body; and

WHEREAS the owner acknowledges that his use of the portion of the parking lot covered by the dedicated right of way is a privilege that is revocable at any time, without compensation of any kind;

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

The City of Rapid City agrees to allow the portion of the parking lot covered by the dedicated right of way to continue to be used by the owner.

The Owner agrees to immediately cease the use of the portion of the parking lot covered by the dedicated right of way upon notice by the City or any other authorized public entity. Additionally, the owner agrees to refrain from any construction activity in the dedicated public right of way without the express, written authorization of the City of Rapid City.

All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of the Owner, and are to be considered as a covenant running with the above-described property.

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, 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

CITY OF RAPID CITY

\_\_\_\_\_  
Jerry Munson, Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

\_\_\_\_\_  
Dan O'Brien

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

**ON THIS \_\_\_\_\_ DAY** of, \_\_\_\_\_, 2002, before me, the undersigned officer, personally appeared Jerry Munson 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 to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the **CITY OF RAPID CITY** by themselves as Mayor and Finance Officer.

