



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Growth Management Department

300 Sixth Street

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MEMORANDUM

TO: Rapid City Council

FROM: Vicki L. Fisher, Urban Planner III

DATE: June 2, 2004

RE: Authorization for the Mayor to sign an agreement with Basin Electric Power

Legal Description: NE1/4, Section 34, T1N, R8E, BHM, Pennington County, South Dakota

The applicant has submitted a SDCL 11-6-19 Review to install a metering breaker on an exiting utility structure located on the above legally described property and to enclose the improvement with a fence. On April 25, 2002, the Planning Commission approved a SDCL 11-6-19 Review to construct a utility substation and transmission lines, including the structure being expanded as a part of this current review. A stipulation of approval of the original SDCL 11-6-19 Review to allow the substation and the tie lines required that "...all proposed structures and utility line(s) shall be located a minimum distance of 45 feet from the centerline of the section line highway"; however, the proposed fence as well as several existing utility poles and/or structures were constructed approximately 37 feet from the centerline of the section line highway. The location of these structures will conflict with the future construction of the roadway.


The applicant has requested that they be allowed to leave the structures where they are currently constructed and enter into an agreement with the City to relocate the structures in the future when the section line highway is constructed. On May 28, 2004, the applicant submitted a signed agreement stating that Basin Electric Power shall move structures, utility lines, fencing and other utility encroachments located within a distance of 45 feet from the centerline of the section line highway at their expense upon such time as the City requires the additional right-of-way to construct Lamb Road as a principal arterial street. The document also requires the signature of the Mayor.



EQUAL OPPORTUNITY EMPLOYER

Staff Recommendation: Authorize the Mayor to sign the agreement with Basin Electric Power requiring Basin Electric Power to move structures, utility lines, fencing and other utility encroachments located within a distance of 45 feet from the centerline of the section line highway at their expense upon such time as the City requires the additional right-of-way to construct Lamb Road as a principal arterial street.

(04SR018)

Prepared by: Mr Russ Mather, Staff Council 
Basin Electric Power Cooperative
1717 East Interstate Ave
Bismarck, North Dakota 58501

AGREEMENT

This agreement is entered into on the ____ day of _____, 2004, by and between Basin Electric Power Cooperative, herein after referred to as "Cooperative," and the City of Rapid City, a municipal corporation, 300 Sixth Street, Rapid City, South Dakota, herein after referred to as "City."

WHEREAS, Cooperative has requested a review under SDCL 11-6-19 to allow a breaker installation on Structure 44 on the Rapid City Tie located to the west of the intersection of Old Folsom Road and Lamb Road; and

WHEREAS, Lamb Road, located along the north lot line of the subject property has been classified as a principal arterial street on the City's major Street Plan, which requires a minimum 100 foot right-of-way; and

WHEREAS, the City will need 45 feet more or less from the centerline of the public right-of-way on the south side of the road to preserve this right-of-way; and

WHEREAS, the current site plan submitted by Cooperative identifies a proposed fence as well as utility poles and a breaker. The fence will be located within 37 feet of the centerline of the section line road; and

WHEREAS, City staff are prepared to recommend approval of the expansion pursuant to the 11-6-19 review if at such time as the City requires the additional right-of-way to construct Lamb Road as a principal arterial street, the Cooperative agrees to move at their own expense, any structures, or other encroachments located within a distance of 45 feet, more or less, of the centerline of the public right-of-way.

NOW THEREFORE:

1. The Cooperative agrees to remove any of its transmission line poles or other encroachments located within 45 feet more or less of the centerline of the highway, at its own expense, for the property described above, at such time as the City requires the additional right-of-way to construct Lamb Road as a principal arterial street. For purposes of this agreement, the measurement of the 45 foot setback identified hereinabove shall be: (1) from the centerline of the public right-of-way (i.e., section line) to the centerline of transmission line poles (in the case of single pole structures) with conductor overhang 22 feet or more above grade, and (2) from the centerline of the public right-of-way to the nearest edge in the case of any other encroachment installed by the Cooperative.
2. In exchange for this agreement City staff will recommend approval of the Cooperative's expansion.


Dated this _____ day of _____, 2004.

(SEAL)

BASIN ELECTRIC POWER COOPERATIVE

ATTEST:

Finance Officer


By: JAMES K. MILLER
Title: ENVIRONMENTAL SERVICES MANAGER

CITY OF RAPID CITY

By: Jim Shaw
Title: Mayor

Subscribed and sworn to before me this 27th day of May, 2004, by J.K. Miller.
James K. Miller


Judy J. Willman
Notary Public, State of North Dakota

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

JPL
Attorney

5-27-04
Date

