

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND KUMMER &
STEELE PARTNERSHIP FOR PAYMENT OF SEWER AND WATER
CONSTRUCTION FEES.**

This agreement is entered into this 21st day of Feb., 2008, by and between the City of Rapid City, a municipal corporation organized under the laws of the State of South Dakota, located at 300 Sixth Street, Rapid City, SD 57701, herein after referred to as the "City", and Kummer & Steele Partnership, a partnership organized under the laws of the State of South Dakota, located at P.O. Box 1660, Rapid City, South Dakota, hereinafter referred to as the "Landowner."

WHEREAS, the Landowner is the owner of real property within Rapid City generally located at 645 Century Road; and

WHEREAS, the Landowner paid the entire cost of boring approximately 100 lineal feet under E. North Street in order to accommodate the extension of a 10" water main and 8" sewer main to its property; and

WHEREAS, the boring paid for by the Landowner will benefit several other properties west of East North Street; and

WHEREAS, the other benefited landowners should be required to pay their share of the boring costs; and

WHEREAS, the City anticipates adopting water and sewer construction fees to recover from the other benefited landowners their proportionate share of the cost of the boring at such time as they connect to the City's water and sewer system; and

WHEREAS, the purpose of this agreement is to provide for the method by which the City will pay the Landowner for the construction fees it has collected.

NOW THEREFORE, in consideration of the mutual promises and conditions herein contained, the parties hereby agree as follows:

1. The Landowner acknowledges it has bored approximately 100 lineal feet beneath E. North Street to accommodate a 10 inch (10") water main and an 8 inch (8") sewer main. This work was done entirely at the Landowner's expense. The total cost for boring under the street was \$21,280.
2. The City has identified additional property, herein after referred to as the "Benefiting Area" as shown on Exhibit A and Exhibit B that have been attached hereto and incorporated herein by this reference, which will also benefit from the above described water and sewer system improvements. Upon construction fees being established, the City agrees that at such time as any of the properties within the Benefiting Area request to be connected to the City's water and/or sewer mains, the City will collect the approved construction fee for that particular improvement.

3. The proposed Water Construction Fee for properties within the Benefiting Area shall be established by dividing the total calculated costs of the boring for the water main extension which equals \$10,640.00, by the 35.11 acres within the Benefiting Area as shown on Exhibit A. Based on this formula, the proposed Water Construction Fee is \$356.53 per acre. The Water Construction Fee shall be paid by each parcel in the Benefiting Area, as well as and any future subdivided parcels within the Benefiting Area, at such time as they request to connect to the above-described water main.

4. The proposed Sewer Construction Fee for properties within the Benefiting Area shall be established by dividing the total calculated costs of the boring for the water main extension which equals \$10,640.00, by the 5.78 acres of Benefiting Area as shown in Exhibit B. Based on this formula, the proposed Sewer Construction Fee is \$1,839.56 per acre. The Sewer Construction Fee shall be paid by each parcel in the Benefiting Area, as well as and any future subdivided parcels within the Benefiting Area, at such time as they request to connect to the above-described sewer main.

5. The City will pay the Landowner the fees it collects. The maximum amount the City will pay the Landowner under this agreement is \$16,931. This amount represents the total cost of the boring minus the Landowner's proportionate share of the fee. The City agrees to pay to the Landowner the fees collected once a year within 45 days of the end of each calendar year. Payments to the Landowner will cease if and when the total costs identified to be collected in the resolutions are reimbursed.

6. The Landowner hereby agrees to furnish the City Finance Office with a current mailing address and update that address as is needed in order to facilitate disbursement of collected construction fees.

7. The proposed Construction Fees will be in addition to any existing connection and/or construction fees established for this area.

8. By adopting Construction Fees and executing this agreement, the City is not agreeing to reimburse the Landowner for the boring. The City makes no promises or guarantees that the Construction Fees collected will be sufficient to fully reimburse the Landowner for the money it expended constructing the improvements. If the Construction Fees collected by the City are insufficient to cover the Landowner's costs, the Landowner shall have no recourse against the City.

9. The Landowner agrees to defend, indemnify, and hold the City harmless from any and all damages, claims, suits, demands, or asserted obligations for injuries or damages arising out of or the inability of the City to furnish water or sewer service as herein provided. The Benefiting Areas were established based on estimates of the current or anticipated land use within the service areas. Each potential user within the Benefiting Areas shall establish there is adequate remaining capacity prior to being allowed to connect to the water or sewer main.

10. 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 venued in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

11. 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.

Dated this 21 day of Feb., 2008.

Kummer & Steele Partnership

By: Wayne Kummer

Its: Partner

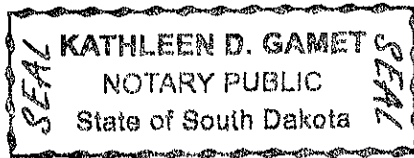
By: Robert Steele

Its: Partner

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF PENNINGTON)

On this the 21st day of FEBRUARY, 2008, before me, the undersigned officer, personally appeared Wayne Kummer and Robert Steele, known to me or satisfactorily proven to be the persons whose name is subscribed within instrument and acknowledged that they executed the same for the purposes therein contained and that they had the authority to do so in the name of KUMMER & STEELE PARTNERSHIP, as its _____ and _____

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



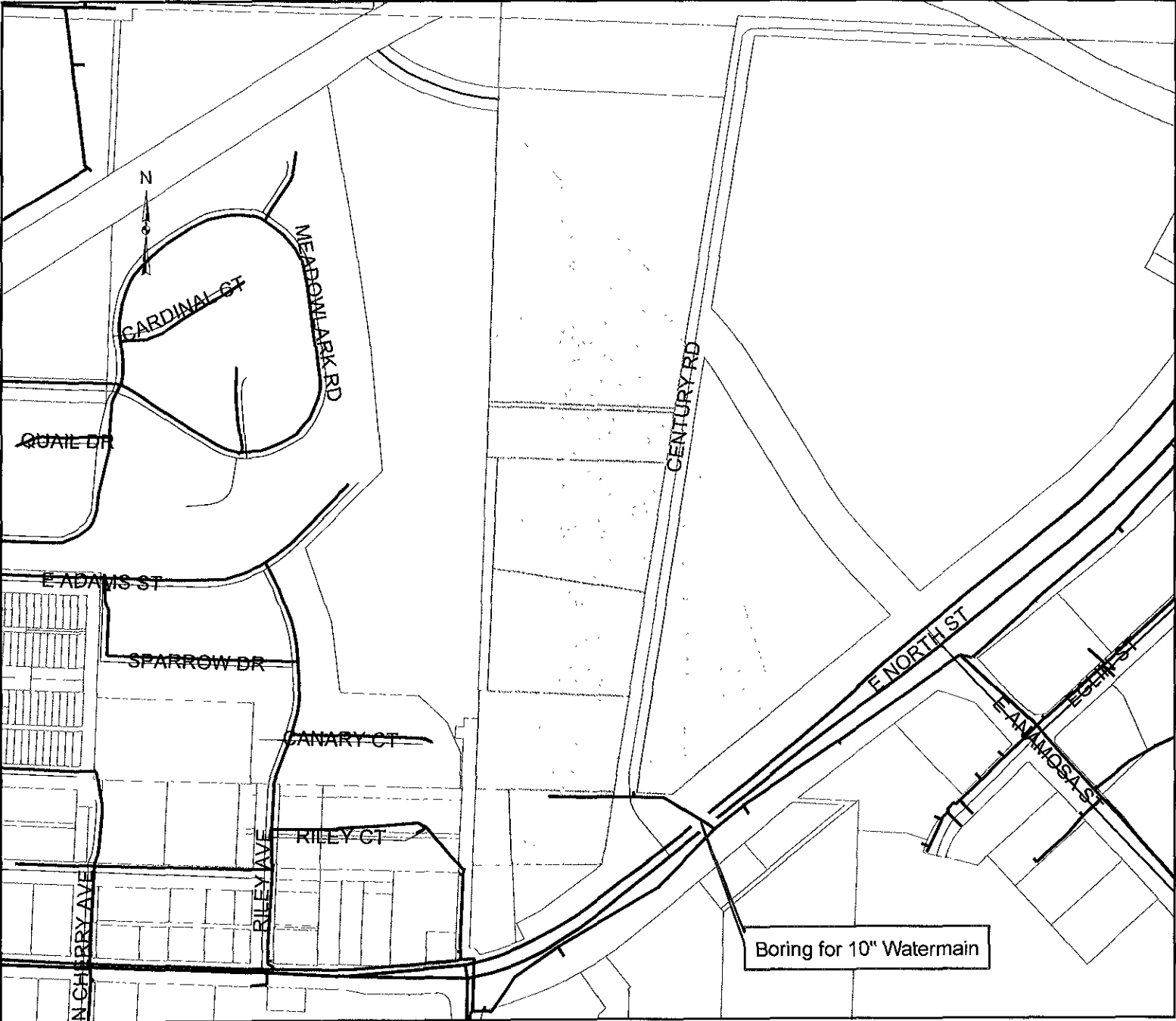
(SEAL)

Kathleen D. Gamet
Notary Public, South Dakota
My Commission Expires: Nov. 2, 2010

CITY OF RAPID CITY

Mayor

Exhibit A



AAMCO TRANSMISSION BORING WATER CONSTRUCTION FEE BENEFITING AREA

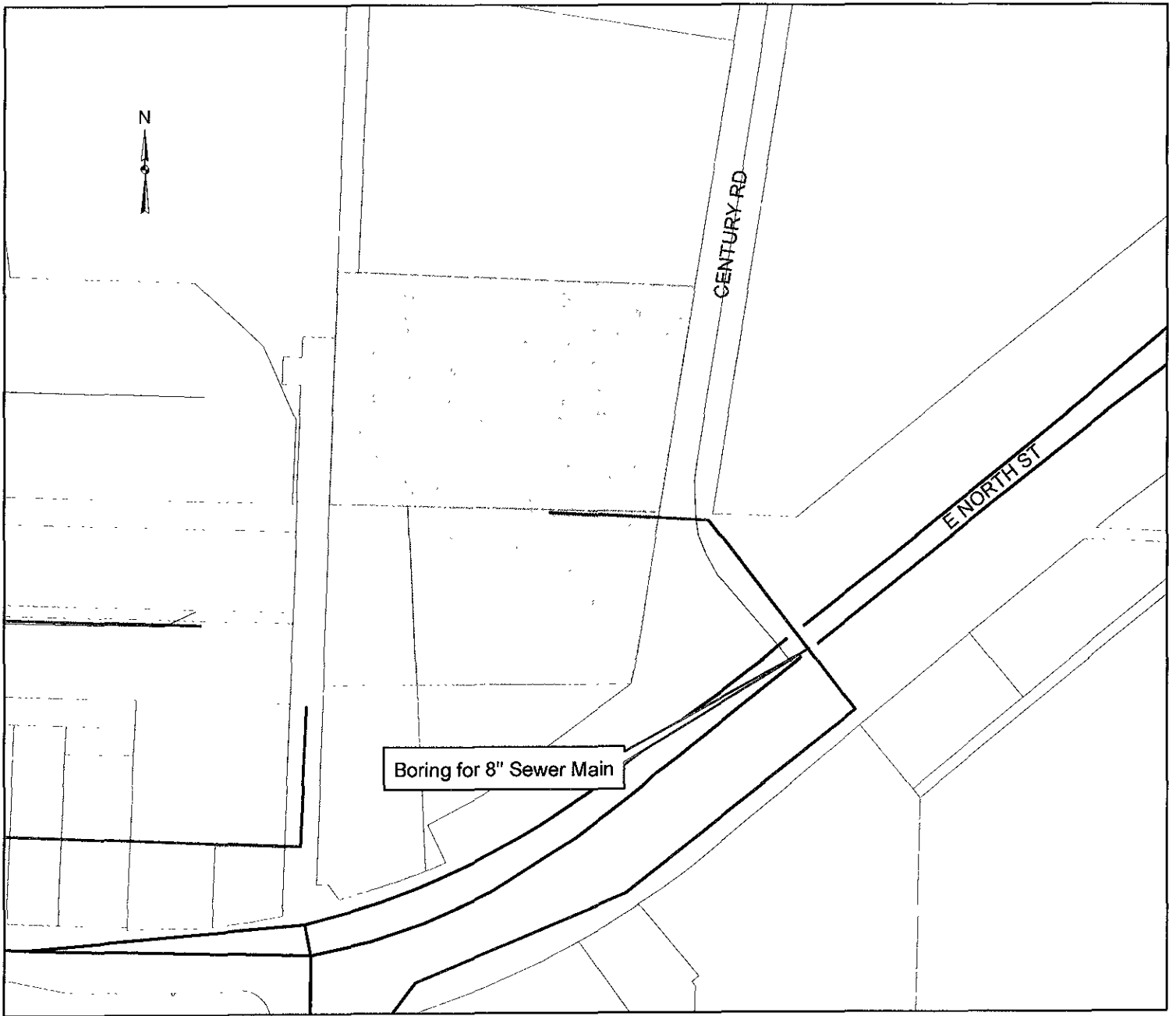
Legend

— Boring for 10" Water Main
— Water Distribution Network

Benefiting Area
□ Parcels



Exhibit B



AAMCO TRANSMISSION BORING SEWER CONSTRUCTION FEE BENEFITING AREA

Legend

— Boring for 8" Sewer Main
— Sanitary Sewer System

Benefiting Area
Parcels

