

**AGREEMENT BETWEEN CITY OF RAPID CITY AND LANDOWNER TO
CONSTRUCT A SEWER MAIN IN EAST QUINCY STREET AND CORRECT A NON-
CONFORMING SEWER SERVICE LINE WHICH IS CURRENTLY FAILING.**

This Agreement is made by and between the City of Rapid City, located at 300 Sixth Street, Rapid City, South Dakota 57701, herein after referred to as the "City," and Michael Kettering, located at 107 E. Quincy Street, Rapid City, South Dakota 57701, herein after referred to as the "Landowner."

WHEREAS, the Landowners' home at 107 E. Quincy Street receives sewer service from the City; and

WHEREAS, the Landowners' property is served by a sewer service line which does not conform to current City standards; and

WHEREAS, the Landowners' sewer service line is currently failing and needs to be repaired immediately; and

WHEREAS, a sewer main must be extended down Quincy Street in order to install a service line which conforms to current City standards; and

WHEREAS, it is crucial this line be replaced quickly to stop raw sewage from seeping out of the failing service line; and

WHEREAS, the City has a policy whereby it will help pay to convert a non-conforming service line into a conforming line; and

WHEREAS, the City is willing to construct a main in Quincy Street which will allow the Landowners to build a conforming service line if the Landowners agree to pay 30% of the construction cost on the portion of the main which benefits their property.

NOW THEREFORE, the parties hereby mutually covenant and agree as follows:

1. This Agreement pertains to property generally located at 107 E. Quincy Street and legally described as:

Lot 9-14 of Block 7, Denman's Addition, Rapid City, Pennington County, State of South Dakota.

2. The City agrees to extend a public sewer main in Quincy Street up to the Landowners' property and reconnect the Landowners' service line to the new main. The City will award the contract for repair of the sewer main and supervise construction. At the end of the project, the City will invoice the Landowner for 30% of the cost of construction on the portion of the main which benefits their property. This amount will be based on actual cost of construction, including any change orders. The Landowner shall pay this invoice within Forty-five (45) days of it being sent to them by the City. If the Landowners fail to pay the invoice in a timely

manner, the Landowner agrees the City may seek to recover 100% of the total project cost from them.

3. The parties consent to this project and concede that it is an emergency situation which needs to be resolved quickly based on the seepage of raw sewage from the service line. The Landowners acknowledge the City could legally force them to install a conforming sewer service line at their sole expense and that the City's promises to contribute to the construction costs and manage the project is sufficient consideration for the promises they have made herein.

4. 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.

5. If any section(s), or provision of this Agreement are declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision of this Agreement if they can be given effect without the invalid section(s) or provisions.

6. No modification or amendment to this Agreement shall be valid, unless evidenced by a writing signed by the parties hereto or their successors in interest.

7. The parties' rights and obligations under this Agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota. Any dispute concerning this Agreement shall be venued and litigated in the Circuit Court for the Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

Dated this 16 day of July, 2009.


Michael Kettering

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2009, before me, the undersigned officer, personally appeared Alan Hanks 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 so to do, executed the foregoing Agreement Consenting to Assessed Project 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.

Notary Public, South Dakota
My Commission Expires:

State of South Dakota)
 ss.
County of Pennington)

On this the 16 day of July, 2009, before me, the undersigned officer personally appeared Michael Kettering, known to me or satisfactorily proven to be the persons whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

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



Notary Public, South Dakota
My Commission Expires: **June 8, 2014**

