

**AGREEMENT BETWEEN CITY OF RAPID CITY
AND GAYLA WILLIAMS AND RAND WILLIAMS CONCERNING REPLACEMENT
OF WATER SERVICE TO RIDGESTONE MOBILE HOME PARK**

This Agreement is entered into this 4 day of July, 2020, by and between GAYLA WILLIAMS and RAND WILLIAMS, of 742 State Street, Spearfish, SD 57783-2157 ("Owners") and the CITY OF RAPID CITY, a South Dakota municipal corporation, of 300 Sixth Street, Rapid City, SD 57701 (the "City").

WHEREAS, Owners are the owner of record of property within the City of Rapid City called Ridgestone Mobile Home Park, generally located at 600 Lindbergh Avenue, and legally described as follows:

The West 662.04 feet of the North 573.15 feet of the South 1073.15 feet of Tract A Less Dedicated Lindberg Street in Northern Heights Subdivision, Section 25, Township 2 North, Range 7 East, Black Hills Meridian (S2N R7E BHM), Rapid City, Pennington County, South Dakota;

("Ridgestone Mobile Home Park" or "the Property"); and

WHEREAS, the existing water service to Ridgestone Mobile Home Park crosses the neighboring property at 1717 Haines Avenue and includes a meter pit located at 1717 Haines that cannot provide an accessible and suitable location for a water meter; and

WHEREAS, the meter for Ridgestone Mobile Home Park has not functioned for more than 24 months; and

WHEREAS, Owners acknowledge that the City has the authority to turn off water service to the Property because of their noncompliant meter pit; and

WHEREAS, in consideration of the City's forbearance in turning off the water to the Property, Owners agree to enter into this Agreement to replace the inoperable meter pit with a new water service; and

WHEREAS, the parties desire to reduce their agreement to writing.

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

A. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.

B. Owners' Rights and Obligations. Owners consent to the following deadlines for replacement of the water service for Ridgestone Mobile Home Park and agree to be responsible

for the construction and operation of the new water service allowed by the City, at Owners' sole cost:

1. By April 1, 2020, Owners shall submit to the City construction plans to replace the non-conforming 6 inch water service with a new conforming water service that includes a new service line and an above ground meter facility. The service may take water service from Haines Avenue or from Lindberg Avenue. Such construction plans shall be designed and stamped by a registered professional engineer licensed in the State of South Dakota; shall comply with all City ordinances, regulations, and criteria; and shall include an engineer's estimate for the cost of the improvements.
2. Within 30 days of the City's approval of the construction plans, Owners shall enter into a contract with a construction company to construct the conforming water service, and shall submit the signed contract to the City.
3. Within 30 days of the City's approval of the construction plans, Owners shall provide a performance surety to the City's benefit equivalent to the cost estimate. Such surety shall be a letter of credit or bond or other instrument in a form approved by the City Attorney's Office.
4. Owners shall complete all construction described in the approved plans by September 1, 2020.
5. Owners will be permitted to continue to utilize the existing noncompliant service, including the meter pit at 1717 Haines Avenue, until all construction is complete, subject to Section C2.

The parties may agree to reasonable extension(s) of the timeframes listed above. Any such agreement shall be documented in writing signed by the Public Works Director and by one or both Owners.

C. City's Rights and Obligations.

1. City agrees to timely review all construction plans submitted by Owners.
2. City agrees that, so long as Owners are complying with the deadlines as provided in this Agreement, or as amended pursuant to Section B, City will not turn off the water to the Property on the basis of the existing meter pit. City retains the right to turn off water to the Property for any other purpose as allowed in state law or city ordinance.

D. Owners' Notification and Assignment. Before entering into a purchase agreement with any potential buyers for the Property, Owners shall provide notice of this Agreement to the potential buyers. Owners may assign this Agreement to subsequent purchaser(s) with the written consent of City, and City may request any documentation and commitments necessary from the subsequent purchaser(s) before giving its consent to the assignment. If Owners do not provide

the required notification to subsequent property owners and/or do not assign the Agreement in accordance with this Section, then City may seek a judicial order for specific performance of the terms of this Agreement requiring Owners to perform the obligations herein even if they no longer own the Property. Owners agree to indemnify City for its costs, including attorney's fees, incurred with respect to any such action.

E. Enforcement. The City may undertake any legal or equitable action available to enforce the provisions of this Agreement in addition to any remedy provided herein. If Owners violate a provision of this Agreement, the parties agree that City may turn off water to the Property and/or take any other actions to exercise all legal and equitable rights available under the laws of the State of South Dakota for Owners' breach, including the right to specific performance. Owners agree to indemnify City for its costs, including attorney's fees, incurred with respect to any such action.

F. Authority. This Agreement is entered into by the Public Works Director pursuant to the authority given in Rapid City Municipal Code Sections 2.44.020 and 13.12.060.C.2.

G. Additional Provisions.

1. *Waiver.* Any failure or delay in enforcing the provisions in this Agreement shall not impair or affect the covenant so far as any future or other breach is concerned. It is understood and agreed that no waiver of any breach of the covenants herein contained shall be construed to be a waiver of any other breach of the same or other covenant, nor shall failure to enforce any one of the restrictions, either by forfeiture or otherwise, be construed as a waiver of any other restriction or condition.
2. *Entire Agreement.* This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.
3. *Severability.* 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.
4. *Modification.* No modification or amendment to this Agreement shall be valid, unless evidenced by a writing signed by the parties hereto or their assignees, except as provided in Section B.
5. *Jurisdiction and Venue.* 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.

6. *Time of the Essence.* The parties agree that time is of the essence in this Agreement.

Dated this 4 day of Feb, 2020.


RAND WILLIAMS

State of South Dakota)
 ss.
County of Lawrence)

On this the 4 day of Feb, 2020, before me, the undersigned officer personally appeared Rand Williams, known to me or satisfactorily proven to be the person 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: 11/3/22

Dated this 4 day of Feb, 2020.


GAYLA WILLIAMS

State of South Dakota)
)
) ss.
County of Lawrence)

On this the 4 day of Feb, 2020, before me, the undersigned officer personally appeared Gayla Williams, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

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



Sandy L. Clevering
Notary Public, South Dakota
My Commission Expires: 11/31/22

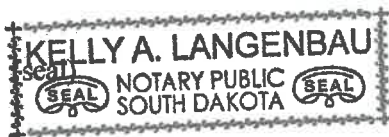
Dated this 4th day of February, 2020.

Dale Tech
DALE TECH,
Public Works Director

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

On this the 4th day of February, 2020, before me, the undersigned officer personally appeared Dale Tech, known to me or satisfactorily proven to be the Public Works Director for the City of Rapid City, a South Dakota municipal corporation, and that he, as such Public Works Director, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

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



Kelly A. Langenbau
Notary Public, South Dakota
My Commission Expires: 10/05/2022