COVENANT AGREEMENT BETWEEN CITY OF RAPID CITY AND DOECK LLC REGARDING MAINTENANCE OF STORM WATER DETENTION POND LOCATED IN BLOCK FOUR (4), AUBURN HILLS SUBDIVISION

THIS DECLARATION OF COVENANT AND AGREEMENT ("Agreement") is entered into this ____ day of __________, 2020, by and between Doeck LLC, a South Dakota limited liability company, of 1717 North Sanborn Blvd., Mitchell, South Dakota 57301 (“Landowner”), and the City of Rapid City, South Dakota, a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South Dakota 57701 (“City”).

Landowner hereby acknowledges that it is the owner of record of the property in Rapid City, South Dakota, which is legally described as:

Drainage Lot in Block Four (4), Auburn Hills Subdivision, located in the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Thirteen (13), Township Two (2) North, Range Seven (7) East, B.H.M., Rapid City, Pennington County, South Dakota;

and

WHEREAS, Landowner is seeking approval of a final plat; and

WHEREAS, the Drainage Lot located in Block Four (4) will be utilized for a major drainage easement to provide storm water treatment for the Landowner’s proposed development; and

WHEREAS, as a condition of approval for the final plat, the Landowner agrees to enter into a recorded Covenant Agreement identifying the maintenance responsibility for the storm water detention pond.
NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS CONTAINED HEREIN, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. Landowner hereby covenants and agrees (so long as it continues to be the owner of Drainage Lot located in Lot Four (4)) that it shall maintain the storm water detention pond.

2. So long as it remains the owner of Drainage Lot located in Lot Four (4), Landowner will keep the storm water detention pond free from improvements and obstructions, including any buildings, hedges, trees and shrubs which could interfere with or affect drainage. It is the responsibility of Landowner to prevent soil erosion and accumulation of sediment within the storm water detention pond and to insure that the Drainage Lot is maintained, mowed and rakes, all as required to allow the drainage improvements to function properly.

3. Landowner hereby covenants and agrees to defend, indemnify and hold the City harmless from all claims relating to the storm water detention pond, so long as it remains the owner of Drainage Lot located in Lot Four (4).

4. 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 without regard to the principles of conflict of laws. Any legal action arising out of or relating to this Agreement shall be brought only in the Circuit Court for the State of South Dakota, Seventh Judicial Circuit, Pennington County, South Dakota.

5. 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 or its subdivision regulations in connection with 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 said action.

6. All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of Landowner, and be considered as a covenant running with the above described property. Furthermore, it is agreed that, in accepting title to the above described property, any grantee, heir, assign or successor in interest to the undersigned expressly agrees to be bound by the terms of this Agreement recorded with the Pennington County Register of Deeds’ Office pursuant to provisions of South Dakota statutes.
7. If any section or provision of this Agreement is 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 or provision.

8. If the Landowner is a corporation or limited liability company, it has the power to enter into this Agreement, and its officers or members signing for it have full power and authority to do so.

Dated this _____ day of _______________, 2020.

CITY OF RAPID CITY, SOUTH DAKOTA

(SEAL)

By ________________________________

Its Mayor

ATTEST:

______________________________

Finance Officer

STATE OF SOUTH DAKOTA

SS

COUNTY OF PENNINGTON

On this the _____ day of ____________, 2020, before me, the undersigned officer, personally appeared __________________ and __________________, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, South Dakota, a municipal corporation, and that they as such Mayor and Finance Officer being authorized so to do, 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.

In Witness Whereof I hereunto set my hand and official seal.

My Commission Expires: ___________________________ Notary Public
Dated this 3 day of 6, 2020.

DOECK LLC

By

One of Its Member

STATE OF SOUTH DAKOTA
SS
COUNTY OF PENNINGTON

On this the 3 day of 6, 2020, before me, the undersigned officer, personally appeared Joe Muth, who acknowledged himself to be one of the Members of Doeck LLC, a South Dakota limited liability company, and that he as such Member being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as one of its Members.

In Witness Whereof I hereunto set my hand and official seal.

Notary Public

My Commission Expires: October 6, 2023