

PREPARED BY: City's Attorney Office  
300 Sixth Street  
Rapid City, SD 57701  
(605) 394-4140

## COVENANT AGREEMENT

THIS AGREEMENT IS MADE and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and for J. MARK ROBERTS, ACTING TRUSTEE OF THE JOHN P. ROBERTS REAL ESTATE TRUST, hereinafter "Developer," and the CITY OF RAPID CITY, a municipal corporation of the State of South Dakota, hereinafter the "City."

WHEREAS, Developer is the owner of real property within the City of Rapid City legally described as Lot 2 of John Roberts Subdivision, located in Section Seven (7), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota; and

WHEREAS, in 2012 the Developer previously sought a variance to the subdivision regulations for Lot 2 to waive the requirement to dedicate 17 additional feet of right-of-way along East St. Patrick Street; and

WHEREAS, the Common Council granted the variance at its meeting on January 17, 2012, with the stipulation that prior to submittal of a Final Plat application the Developer shall enter a Covenant Agreement with the City securing the commitment to dedicate 17 additional feet of right-of-way along East St. Patrick Street; and

WHEREAS, thereafter the parties entered into the Covenant Agreement that burdens Lot 2 with future dedication of right of way if it is further subdivided, developed, or redeveloped or if the dedication is necessitated by corridor growth (Doc. A201311677); and

WHEREAS, now the Developer wishes to subdivide Lot 2 into two lots through the platting process and will dedicate the needed right of way along East St. Patrick Street on the anticipated Lot 2B; and

WHEREAS, Developer has asked for an exception to the requirement that it dedicate 17 feet of right of way along East St. Patrick Street for anticipated Lot 2A; and

WHEREAS, the parties wish to release the obligations in the previous covenant

agreement Doc. A201311677 with regard to Lot 2B and to adopt similar limitations upon Lot 2A only; and

WHEREAS, it is the intent and purpose of both the Developer and the City to enter into an agreement whereby the Developer will consent to dedicate an additional 17 feet of right of way on East St. Patrick Street along Lot 2A and to remove encroaching buildings at a future date as defined in this Agreement in exchange for the City's exception to the requirement to dedicate the right of way in conjunction with the plat of Lot 2A.

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

1. This agreement pertains to, and includes that property ("Property") which is designated and identified as follows:

**Lots 2A and 2B of John Roberts Subdivision, located in Section Seven (7), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota.**

2. Developer agrees to dedicate additional of right of way along East St. Patrick Street adjacent to Lot 2A only and to remove existing buildings or structures on Lot 2A which encroach upon the existing or future right of way at the earliest of these two events:

(1) Lot 2A is further subdivided, developed, or redeveloped; or

(2) The dedication of right-of-way from Lot 2A is necessitated by corridor growth and the City provides written notice to Developer and/or its successors in interest.

The amount of right of way that Developer must dedicate shall be determined by the subdivision regulations that are in effect and applicable at the time of the dedication. At the time of execution of this covenant agreement, the amount of right of way that is required under the subdivision regulations is 17 feet.

3. The parties agree that the obligations in the previous covenant agreement Doc. A201311677 are hereby released with regard to Lot 2B, and that there is no additional obligation or requirement of Lot 2B to dedicate future right-of-way beyond what the subdivision regulations would require at the time of future development.

4. All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of the Developer, and be considered as a covenant running with the Property described herein. Furthermore, it is agreed that, in accepting title to the Property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to



foregoing Covenant Agreement 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:

(SEAL)

