

## **OVERSIZING REIMBURSEMENT AGREEMENT FOR PLUM CREEK SUBDIVISION PHASE TWO**

This Agreement is made and entered into by and between the **CITY OF RAPID CITY**, a municipal corporation, herein after called the “City,” and **PLUM CREEK DEVELOPMENT, LLC**, a South Dakota Limited Liability Corp., herein after called the “Developer.”

### **Recitals**

**WHEREAS**, the City has adopted by Resolution a policy that requires that any proposed residential development within the City’s jurisdiction that contains forty or more residential units must have at least two points of access; and

**WHEREAS**, the Plum Creek Subdivision currently only has one point of access; and

**WHEREAS**, the Developer is currently proposing to develop forty or more residential lots in the Plum Creek Subdivision; and

**WHEREAS**, the Developer will be unable to develop these lots unless it provides a second point of access to the subdivision; and

**WHEREAS**, the Developer has agreed to construct an extension of Minnesota Street that will connect the Plum Creek Subdivision to Hwy. 79; and

**WHEREAS**, the extension of Minnesota Street that the Developer has agreed to construct will provide a second point of access to the Plum Creek Subdivision as required by the City’s resolution; and

**WHEREAS**, the City is requiring the Developer to construct Minnesota Street so that it can accommodate a future five lane arterial street; and

**WHEREAS**, the Developer will incur oversize costs for constructing Minnesota Street to accommodate a five lane arterial street; and

**WHEREAS**, the City has agreed to reimburse Developer for the oversize costs that will be incurred by the Developer in the construction of Minnesota Street.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants and conditions herein set forth, it is agreed as follows:

1. The Developer will construct a three lane extension of Minnesota Street that will be designed and constructed to accommodate a future five lane arterial street.

2. The City will reimburse Developer for the oversize costs that are a result of the Minnesota Street extension being designed and constructed to accommodate a future five lane arterial street. The City will reimburse the Developer for the oversize costs as follows:

- a) Mobilization – The City’s obligation for mobilization will be the ratio between the final project oversize cost and the total project cost, as bid, multiplied by the mobilization bid item.
- b) Unclassified Excavation – The City requires that the roadway be graded to accommodate an arterial street. The City’s obligation to reimburse the Developer for unclassified excavation will be equivalent to the cost of any additional fill material that is required to construct an arterial street vs. a collector street.
- c) Topsoil, Seed, Fertilize and Mulch – The City’s reimbursement obligation on these items will be the cost of any additional materials required to cover the extended slope that may result from the wider fill required for an arterial street.
- d) Water and Sewer – The City will follow its normal oversize policy for water and sewer. The Developer will provide the water and sewer lines of the necessary size to serve the entire development. The City will compensate the Developer for the costs of any increase in the size of the water and sewer lines that is needed to service areas beyond the entire development.
- e) Storm Sewer – The City’s reimbursement obligation will be to pay the cost for the increased length of storm sewer pipe needed to convey the storm sewer under the additional width of an arterial road.
- f) Roadway – The City is requiring that the Developer build a three lane collector street but that the street be designed in accordance with arterial loadings and that other arterial design requirements be incorporated and installed at this time. The City will reimburse the Developer for the difference between the cost of constructing a collector street and the cost of constructing the arterial street components at this time.
- g) Taxes – The City will reimburse the Developer for any excise and sales tax as they apply to items included in the final oversize costs.
- h) Developer shall provide a cross-section or narratives of the final collector and arterial designs. These cross-sections or narratives shall be completed by the design professional of record and will be used as an aid by City staff to assist in determining the proper oversize reimbursement.
- i) The Developer shall provide to the Public Work’s Director an estimate of the oversize reimbursement pursuant to what the City has agreed to reimburse pursuant to this agreement for each component (i.e. street, drainage, water and sewer) within 30 days of the execution of this agreement so that the City can budget for the oversize costs.

3. The Developer agrees to obtain the City's approval of the bid documents for all work proposed to be funded in whole or in part with public funds prior to the Developer advertising for bids.

4. The Project will be let by the Developer in compliance with City procurement requirements as contained in SDCL Chapter 5-18. The provisions of Chapter 5-18 are



(SEAL)

\_\_\_\_\_  
Notary Public  
My Comm. Expires:\_\_\_\_\_

State of South Dakota,        )  
  ) ss.  
County of Pennington.        )

**ON THIS DAY**, \_\_\_\_\_, 2001, before me, the undersigned officer, personally appeared James F. Preston, who acknowledged himself to be Finance Officer of the **CITY OF RAPID CITY**, a municipal corporation, and that he, as such Finance Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the **CITY OF RAPID CITY** by himself as Finance Officer.

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

(SEAL)

\_\_\_\_\_  
Notary Public  
My Comm. Expires:\_\_\_\_\_

State of South Dakota,        )  
  ) ss.  
County of Pennington.        )

**ON THIS DAY**, \_\_\_\_\_, 2005, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself to be \_\_\_\_\_ of **PLUM CREEK LLC**, and that he, as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of **PLUM CREEK LLC**, by himself as its \_\_\_\_\_.

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

(SEAL)

\_\_\_\_\_  
Notary Public  
My Comm. Expires:\_\_\_\_\_