

**Document Prepared By:****Daniel F. Duffy, Esq.**

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Rapid City, SD 57709 (605)-362-3105

**DRAINAGE and ACCESS EASEMENT**

SM Properties LLC, a South Dakota limited liability company whose address is 606 Cathedral Drive, Rapid City, SD 57701, (hereinafter "Grantor"), for ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey to the City of Rapid City, a municipal corporation, whose address is 300 Sixth Street, Rapid City, South Dakota 57701 (the "City") a drainage and access easement, subject to the conditions hereinafter set forth, in, on, over, under, and across certain property generally located north of St. Martins Drive, located in the NW ¼ of NE ¼ of Section 29, Township 2 North, Range 7 East of the Black Hills Meridian, Pennington County, South Dakota, more particularly described on the attached Exhibit A which is incorporated herein.

This drainage and access easement shall include the right of the City and its authorized agents of ingress and egress to the above-described property and shall include the right to construct, install, operate, maintain, inspect, and repair drainage structures on the property pertaining to the regional detention facilities and other drainage improvements as part of the South Canyon/Lime Creek Drainage Basin Plan.

The Parties agree and understand that Grantor shall bear no cost or expense associated with any improvement made by the City or its agents to the burdened real property. Specifically, Grantor shall bear no cost, expense or responsibility associated with the construction, installation, operation, inspection, maintenance, or repair of any improvement made by City or its agents to the property. In connection with this drainage and access easement granted herein, City covenants that for itself and its agents as follows:

- (i) All construction undertaken upon the burdened real property shall be consistent with the South Canyon/Lime Creek Drainage Basin Plan so long as the final construction is materially consistent with Sheet C 12 of the FMG Inc's "review drawings not for construction" and the Pond #281 Riser system detail contained therein which are hereby specifically approved by Grantor.

- (ii) The parties understand that the Grantor will have the right to use the drainage easement area for any purpose, which does not interfere with the rights granted to the City under this drainage and access easement.
- (iii) The City will be responsible to maintain all drainage structures and improvements located within the drainage easement area, together with all appurtenant drainage structures and improvements that are a part of the South Canyon/Lime Creek Drainage Basin Plan, but are located outside the confines of the burdened real property.
- (iv) The City will cause its designees to restore property not actually used for drainage structures and improvements to its condition before disturbance.

This drainage and access easement and the obligations and rights of the parties contained herein shall be perpetual and shall run with the land, and shall be binding upon and inure to the benefit of the parties and their respective successors, and assigns.

Dated: \_\_\_\_\_, 2010

[SIGNATURES FOLLOW SEPARATELY]

[SIGNATURE PAGE OF GRANTOR SM PROPERTIES LLC]

Grantor:

SM Properties LLC

BY: \_\_\_\_\_

Name: Most Rev. Blase J. Cupich

Title: President

STATE OF SOUTH DAKOTA )  
  ):SS  
COUNTY OF PENNINGTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned officer, personally appeared the Most Rev. Blase J. Cupich, acknowledged to be the President of SM Properties LLC, a South Dakota limited liability company, and that 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 its President.

In witness whereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, South Dakota  
My commission expires: \_\_\_\_\_

(SIGNATURE PAGE OF GRANTEE CITY OF RAPID CITY)

CITY OF RAPID CITY

By: \_\_\_\_\_  
Alan Hanks, Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

State of South Dakota        )  
  ss.  
County of Pennington        )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned officer, personally appeared Alan Hanks and Pauline Sumption, 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 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.

\_\_\_\_\_  
Notary Public, South Dakota

My Commission Expires:

(SEAL)

