

**LIFE SAFETY LOAN AGREEMENT BETWEEN TENSLEEP, LLC,
AND THE CITY OF RAPID CITY**

This Life Safety Loan Agreement (hereinafter "Agreement") is made by and between the CITY OF RAPID CITY, a South Dakota municipal corporation, ("City") of 300 Sixth Street, Rapid City, SD 57701, and TENSLEEP, LLC, a South Dakota limited liability company ("Tensleep"), of 201 Main Street, Ste 300, Rapid City, SD 57701.

WHEREAS, the City of Rapid City has established a Life Safety Fund Loan Program to assist building owners with the installation of sprinkler systems in existing buildings; and

WHEREAS, Tensleep has previously made application to the City to participate in the Life Safety Fund Loan Program; and

WHEREAS, Tensleep and the City have entered into a Memorandum of Understanding dated May 4, 2009 ("MOU"), and a First Amendment to Memorandum of Understanding Between the City of Rapid City and Tensleep, LLC ("MOU Amendment"); and

WHEREAS, since Tensleep's application and the execution of the MOU and MOU Amendment, the City has made revisions the ordinance governing the Life Safety Loan Program; and

WHEREAS, no funds were disbursed under the MOU and the parties now desire to revise the terms of the loan to conform with the ordinance changes; and

WHEREAS, the City of Rapid City deems it in the best interest of the City to enter into an agreement with Tensleep to help insure that fire sprinkler systems are installed in the Fairmont Creamery to facilitate the public safety.

NOW THEREFORE, be it agreed by the parties as follows:

1. Recitals. 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.
2. Purpose. The purpose of this Agreement is to promote public safety by providing low cost funds to finance the installation of a fire suppression system in the building commonly known as the Fairmont Creamery, located at 201 Main Street, Rapid City, South Dakota.
3. Loan Amount. The City agrees to loan Tensleep an amount not to exceed Seventy-eight Thousand, Eight Hundred Eighty Dollars (\$78,880) or eighty percent (80%) of the actual cost of installing a fire suppression system in the Fairmont Creamery building, whichever is less. Before the City of Rapid City will distribute any funds under this agreement, Tensleep must provide documentation of the actual cost of installing the fire sprinkler system to the City Finance Officer.

4. Security. Prior to the distribution of the funds by the City of Rapid City, Tensleep shall provide the City of Rapid City with a bank-issued letter of credit in a form acceptable to the City Attorney. The amount of the letter of credit shall be equal to the amount of the loan.

5. Interest. The rate of interest on the loan shall be two percent (2%) per annum.

6. Term. The term of the loan shall be seven (7) years.

7. Payments. Payments shall be made on or before June 1 and December 1 of each year during the term of the loan, beginning December 1, 2012. Payments shall be made in the amounts shown on the amortization schedule attached hereto as Exhibit A and incorporated herein by this reference. Should the amount of the loan be less than the full Seventy-eight Thousand, Eight Hundred Eighty Dollars (\$78,880) as based upon the actual cost of installation, the payment schedule above shall be adjusted by the City's Finance Officer to reduce the amount of the payments. A revised amortization schedule shall be prepared by the Finance Officer to reflect the adjustments. Such schedule shall be signed by the parties, attached hereto and made a part hereof.

8. Yearly Interest Credit. Tensleep shall provide to the City's Finance Officer documentation of the cost of the letter of credit required by paragraph 2 for each year of the loan term. Each year following the first year of repayment, the City's Finance Officer shall determine Tensleep's eligibility for the yearly interest credit provided by Section 3.28.020 of the Rapid City Municipal Code. If Tensleep qualifies for the credit in any year, the Finance Officer shall send written notice to Tensleep of the credit amount and the corresponding reduction in payment amount for that year's payments.

9. Default. If Tensleep fails to fully and timely make any payment by its due date, the City shall have the right to draw on the letter of credit to repay the loan in full. Should the letter of credit's terms require a draw in excess of the balance due, the City shall refund any excess, less its costs, expenses and attorneys fees, to Tensleep. The breach of any other provision of this Agreement by Tensleep shall entitle the City to accelerate the payments due, draw on the letter of credit, and pursue any other legal or equitable remedies available to it.

10. Prior Agreements. The MOU and MOU Amendment are hereby cancelled by this Agreement. Both prior agreements are declared null and void upon execution of this Agreement, and neither the MOU nor the MOU Amendment shall have any further force or effect.

11. Indemnification. Tensleep agrees to defend, indemnify and hold the City, its officers, employees and agents harmless from and against any and all liability, personal injury, property damage, costs and expenses (including, without limitation in any way attorneys' fees and expenses of litigation), relating in any way to or arising out of Tensleep's use of the funds loaned pursuant to this Agreement or its installation of a fire suppression system.

12. Binding Effect. The covenants and agreements contained in this Agreement shall apply to, inure to the benefit of and be binding upon the parties hereto and upon their respective successors administrators, executors and assigns.

13. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

14. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

15. Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

16. Counterparts. This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

17. Headings. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

18. Construction and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota without regard to provisions on conflict of laws. All litigation under this Agreement shall be take place in the Circuit Court of Pennington County, South Dakota.

Dated this _____ day of _____, 2012.

TENSLEEP, LLC

By _____
Sandra McNeely, Managing Member

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2012, before me, the undersigned officer personally appeared Sandra McNeely, who acknowledged herself to be the Managing Member of TENSLEEP, LLC, and that she, as such Managing Member, being authorized so to do, executed the foregoing Agreement for the purposes therein contained by signing the name of TENSLEEP, LLC by herself as Managing Member.

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

(seal)

Notary Public – South Dakota
My Commission Expires _____

Dated this _____ day of _____, 2012.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2012, before me, the undersigned officer, personally appeared Sam Kooiker 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 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.

(seal)

Notary Public – South Dakota
My Commission Expires _____