

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND YASMEEN DREAM,
LLC FOR OVERSIZE STREET IMPROVEMENTS ON ELDERBERRY BOULEVARD**

This Agreement is made and entered into by and between the **CITY OF RAPID CITY**, a municipal corporation, of 300 Sixth Street, Rapid City, SD 57701, hereinafter referred to as the “City,” and **YASMEEN DREAM, LLC**, a South Dakota limited liability company, of 528 Kansas City Street, Rapid City, SD 57701, hereinafter referred to as the “Developer.”

WHEREAS, the Developer is currently constructing Elderberry Boulevard to provide access for the Developer’s Orchard Meadows Subdivision Project which is generally located south of E. Hwy. 44 and east of Elk Vale Road, Rapid City, South Dakota; and

WHEREAS, the Developer’s property is located within the City of Rapid City; and

WHEREAS, the Developer has requested the City participate in oversize costs for improvements to Elderberry Boulevard including two additional lanes of pavement, gravel cushion and pavement markings as shown on Exhibit A, which is incorporated herein by this reference; and

WHEREAS, the Developer has submitted a cost estimate for improvements to Elderberry Boulevard and City staff has reviewed the costs of \$115,700.65, and has determined the costs are consistent with prices the Developer has accepted from contractors hired to do the work; and

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

1. 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. The City shall reimburse the Developer a maximum of \$115,700.65 for improvements to Elderberry Boulevard for two additional lanes of pavement, gravel cushion and pavement markings. This maximum dollar amount is based upon quantities and costs provided in Exhibit B, attached hereto and incorporated as if fully set forth herein. If actual quantities or costs are less than specified in Exhibit B, the amount of reimbursement shall be adjusted accordingly. The developer shall provide certified costs upon completion of the Project.
3. Developer agrees to construct Elderberry Lane as a three-lane commercial street with two additional turning/stacking lanes in accordance with the Developer’s approved Traffic Impact Analysis recommendations, as shown on Exhibit A (herein referred to as the “Project”), in accordance with all applicable city ordinances, the Standard Specifications for Public Works Construction (current edition), and the City’s adopted Infrastructure Design Criteria Manual.
4. Prior to acceptance of the Project by the City, Developer shall provide a warranty bond, or other equivalent surety, in a form approved by the City Attorney. The bond shall be in an amount equivalent to ten percent (10%) of the total cost of the Project and shall secure the warranty for a period of two years from the date of acceptance by the City.

5. The City shall make payment to the Developer within 45 calendar days of the Project being completed, tested, inspected, as-builts submitted, and acceptance of the Project by the City in accordance with all applicable city ordinances and the adopted Infrastructure Design Criteria Manual. Acceptance will be documented by issuance of an acceptance letter from the City Engineer or his designee.

6. In the event that any section(s), or provision(s) 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(s) of this Agreement if it can be given effect without the invalid section(s) or provision(s).

7. 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. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of Pennington County, South Dakota.

8. The parties agree that this writing constitutes the entire agreement between them and that there are no other oral or collateral agreements or understandings of any kind or character except those contained herein. No modification or amendment to this Agreement shall be valid, unless evidenced by a writing signed by the parties hereto.

Dated this ____ day of _____, 2014.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

YASMEEN DREAM, LLC

By _____

Its _____

STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF PENNINGTON)

On this ____ day of _____, 2014, before me, the undersigned officer, personally appeared _____, who acknowledged him/herself to be the _____ of Yasmeen Dream, LLC, and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of Yasmeen Dream, LLC.

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

(seal)

Notary Public, South Dakota
My Commission Expires: _____

**RAPID VALLEY
SANITARY DISTRICT**

Plans are reviewed for general conformance with applicable governmental regulations, stipulations, design criteria and engineering standards. The Rapid Valley Sanitary District does not certify the suitability, adequacy or completeness of the plans or design, which are the responsibility of the engineer of record. All necessary permits shall be obtained prior to construction of the proposed public improvements.

Engineering Reviewer _____ Date _____
COMMENTS _____

CITY OF RAPID CITY

Plans are reviewed for general conformance with applicable governmental regulations, stipulations, design criteria and engineering standards. The City of Rapid City does not certify the suitability, adequacy or completeness of the plans or design, which are the responsibility of the engineer of record. All necessary permits shall be obtained prior to construction of the proposed public improvements.

Engineering Reviewer _____ Date _____
COMMENTS _____

Submittals: _____
Revisions: _____

OVERSIZE NOTES:
1. GRAVEL CUSHION IS 4" DEEP BENEATH PCC PAVEMENT
2. PAVEMENT MARKINGS OVERSIZE QUANTITY WAS DETERMINED ON LINEAR FOOT RATIO

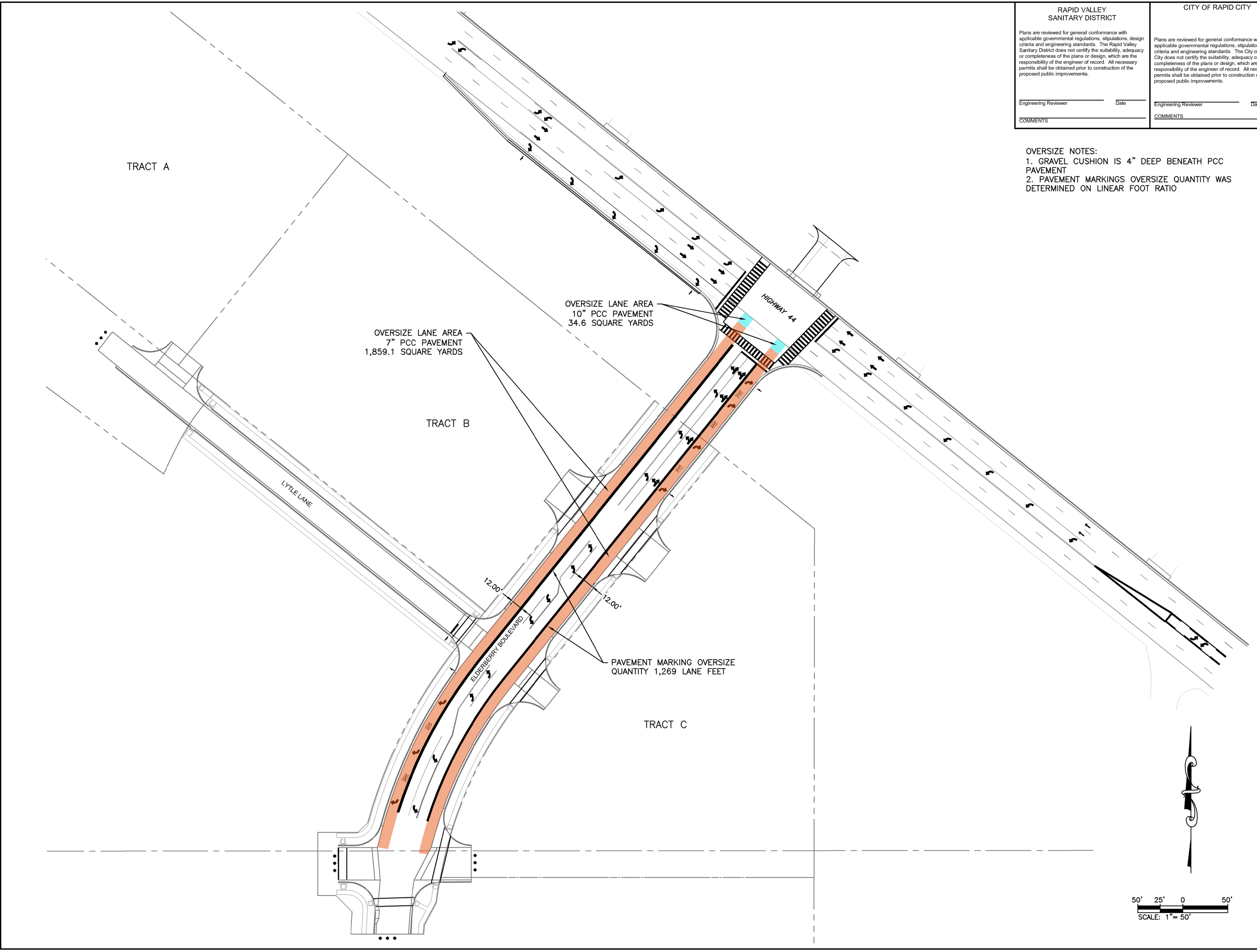
Internal Job No: 12-0654
Designed By: GB
Drawn By: KT/AMW/ME
Surveyed By: RENNER & ASSOC., LLC
Survey Date: 7/11/2013

**PRELIMINARY
FOR REVIEW ONLY**

**DREAM DESIGN
INTERNATIONAL, INC.**
ENGINEERING, ARCHITECTURE,
LAND PLANNING, CONSTRUCTION ADMINISTRATION
528 KANSAS CITY STREET, RAPID CITY, SD 57701
PHONE: (605) 348-0538 FAX: (605) 348-0545 WWW.DREAMDESIGNING.COM

**ORCHARD MEADOWS SUBDIVISION
PHASE 1 - STREET & UTILITY PLANS**

Sheet Name:
EXHIBIT A
Sheet Number:
1 of 1



TRACT A

TRACT B

TRACT C

OVERSIZE LANE AREA
7" PCC PAVEMENT
1,859.1 SQUARE YARDS

OVERSIZE LANE AREA
10" PCC PAVEMENT
34.6 SQUARE YARDS

PAVEMENT MARKING OVERSIZE
QUANTITY 1,269 LANE FEET

HIGHWAY 44

ELDERBERRY BOULEVARD

LYLE LANE

50' 25' 0 50'
SCALE: 1" = 50'

EXHIBIT B

PHASE 1 - ELDERBERRY BLVD. OVERSIZE ESTIMATE

PROJECT: ORCHARD MEADOWS PHASE 1
DDI PROJECT NO. 12-654

DATE: 4/10/2014

CONTRACT VALUATION

BID ITEM	DESCRIPTION	UNIT	OVERSIZE QUANTITY	UNIT COST	TOTAL COST
	SURFACING				
	7" PCC PAVEMENT	SY	1859.1	\$ 52.40	\$ 97,416.84
	10" PCC PAVEMENT	SY	34.6	\$ 85.70	\$ 2,965.22
	GRAVEL CUSHION	TONS	395.9	\$ 19.49	\$ 7,716.09
	PAVEMENT MARKINGS	LS	0.1	\$ 76,025.00	\$ 7,602.50
	TOTAL				\$115,700.65