

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND FOUNDERS PARK
NORTH, LLC FOR OVERSIZE WATER MAIN AND OVERSIZE SANITARY SEWER
MAIN**

THIS AGREEMENT is made and entered into by and between the CITY OF RAPID CITY, a municipal corporation, hereinafter referred to as the "City," and Founders Park North LLC, 35 S 4th Street, Custer, South Dakota, 57730, hereinafter referred to as the "Developer."

WHEREAS, the Developer desires to construct a water main to provide water service and fire protection and a sanitary sewer main to provide sanitary sewer service for the Developer's Founders Park North project generally located in the SW1/4 of the NE1/4 of Section 35, Rapid City, South Dakota; and

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

WHEREAS, the City and the Developer agree to construct a 12" water main rather than an 8" water main, which is the minimum size required to meet the Developer's needs. The 12" water main will allow for water service and fire protection to future development in the area; and

WHEREAS, the City and the Developer agree to construct a 10" sanitary sewer main rather than an 8" sanitary sewer main, which is the minimum size required to meet the Developer's needs. The 10" sanitary sewer will allow for sanitary sewer service to future development in the area; and

WHEREAS, it is in the City's interest to have the Developer construct the 12" water main; and the 10" sanitary sewer main; and

WHEREAS, the Developer has submitted cost estimates to oversize the requested water main and sanitary sewer main, and City staff has reviewed and concurs with the costs, 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 \$17,206.68 for 12" water main and 10" sanitary sewer main oversize. This maximum dollar amount is based upon lengths, quantities and costs provided in exhibit A. If actual lengths, quantities, and costs are less than specified in exhibit A, the amount of reimbursement shall be adjusted accordingly.
3. Prior to project acceptance by the City, a warranty bond, or other equivalent surety, in an amount equivalent to ten percent (10%) of the total cost of the project/improvement shall be provided to the City to secure the warranty for a period of two years.

4. The City shall make payment to the Developer within 45 calendar days of the project being completed, tested, as-builts submitted, and project acceptance. Acceptance will be documented by issuance of an acceptance letter from the City.

5. 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).

6. 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.

7. 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.

Founders Park North LLC

By _____

Its _____

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

On this _____ day of _____, 2012, before me, the undersigned officer, personally appeared _____, who acknowledged him/herself to be the _____ of Founders Park North 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 Founders Park North.

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

(seal)

Notary Public, South Dakota
My Commission Expires: _____

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

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

On this ____ 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 to do so, 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: _____

Exhibit A

Costs for claimed items based upon bid price awarded	Oversized	Description	Unit	Unit Cost	Quantity	Amount
		12" PVC WATER MAIN C-900, CLASS 150	LF	\$ 37.50	982	\$ 36,825.00
		12" GATE VALVE W/BOX	EA	\$ 2,600.00	4	\$ 10,400.00
		12" X 12" X 6" TEE	EA	\$ 770.00	2	\$ 1,540.00
		12" 11.25 DEGREE BEND	EA	\$ 610.00	4	\$ 2,440.00
		12" 22.5 DEGREE BEND	EA	\$ 640.00	1	\$ 640.00
		12" 45 DEGREE BEND	EA	\$ 690.00	3	\$ 2,070.00
		12" 90 DEGREE BEND	EA	\$ 820.00	0	\$ -
		12" X 10" REDUCER	EA	\$ 710.00	1	\$ 710.00
		12" STANDARD COUPLING	EA	\$ 390.00	4	\$ 1,560.00
		CONNECT TO EXISTING WATER MAIN	EA	\$1,543.62	2	\$ 3,087.25
		10" PVC SEWER MAIN (6'- 8')	LF	\$ 36.00	547	\$ 19,692.00
						\$ 78,964.25 Total Oversized
	base	Description	Unit	Unit Cost	Quantity	Amount
		8" PVC WATER MAIN C-900, CLASS 200	LF	\$ 28.00	982	\$ 27,496.00
		8" GATE VALVE W/ BOX	EA	\$ 1,450.00	4	\$ 5,800.00
		8" X 8" X 6" TEE	EA	\$ 700.00	2	\$ 1,400.00
		8" 11.25 DEGREE BEND	EA	\$ 570.00	4	\$ 2,280.00
		8" 22.5 DEGREE BEND	EA	\$ 570.00	1	\$ 570.00
		8" 45 DEGREE BEND	EA	\$ 396.85	3	\$ 1,190.55
		8" 90 DEGREE BEND	EA	\$ 620.00	0	\$ -
		10" X 8" REDUCER	EA	\$ 625.00	1	\$ 625.00
		8" STANDARD COUPLING	EA	\$ 190.00	4	\$ 760.00
		CONNECT TO EXISTING WATER MAIN	LS	\$ 1,543.62	2	\$ 3,087.25
		8" PVC SEWER MAIN (6'- 8')	LF	\$ 33.91	547	\$ 18,548.77
						\$ 61,757.57 Total Base

Difference	Description	Total 12" Oversized	Total 8" Base	Difference
	PVC WATER MAIN C-900, CLASS 200	\$ 36,825.00	\$ 27,496.00	\$ 9,329.00
	GATE VALVE W/ BOX	\$ 10,400.00	\$ 5,800.00	\$ 4,600.00
	TEE	\$ 1,540.00	\$ 1,400.00	\$ 140.00
	11.25 DEGREE BEND	\$ 2,440.00	\$ 2,280.00	\$ 160.00
	22.5 DEGREE BEND	\$ 640.00	\$ 570.00	\$ 70.00
	45 DEGREE BEND	\$ 2,070.00	\$ 1,190.55	\$ 879.45
	90 DEGREE BEND	\$ -	\$ -	\$ -
	REDUCER	\$ 710.00	\$ 625.00	\$ 85.00
	STANDARD COUPLING	\$ 1,560.00	\$ 760.00	\$ 800.00
	CONNECT TO EXISTING WATER MAIN	\$ 3,087.25	\$ 3,087.25	\$ -
	PVC SEWER MAIN (6'- 8')	\$ 19,692.00	\$ 18,548.77	\$ 1,143.23
		\$ 78,964.25	\$ 61,757.57	\$ 17,206.68 Maximum Amount payable