

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND ZCO INCORPORATED
FOR MARLIN DRIVE OVERSIZE WATER TRANSMISSION MAIN
COST REIMBURSEMENT**

THIS AGREEMENT is made and entered into by and between the CITY OF RAPID CITY, a municipal corporation, 300 Sixth Street, Rapid City, South Dakota, 57701, hereinafter referred to as the "City," and ZCO Incorporated, a South Dakota corporation, of P.O. Box 1940, Rapid City, South Dakota, 57709-1940, hereinafter referred to as the "Developer."

WHEREAS, the Developer desires to construct a water main to provide water service and fire protection for the Developer's Elks Crossing Subdivision and future development projects generally located in the SW ½ Section 16, NE1/4 Section 20 and NE ¼ Section 21 along Marlin Drive and East Minnesota Street, 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 16" water transmission main rather than an 8" water main, which is the minimum size required to meet the Developer's needs. The 16" water transmission main will allow future water main extension within the area in accordance with the City's Utility System Master Plan.

WHEREAS, it is in the City's interest to have the Developer construct the 16" water transmission main; and

WHEREAS, the Developer has submitted cost estimates to oversize the requested water transmission 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 \$177,252.44 for the Marlin Drive 16" water transmission main oversize costs. 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 the Developer shall submit documentation certifying actual costs incurred. If actual lengths, quantities, and costs are less than specified in exhibit A, the amount of reimbursement shall be adjusted accordingly.
4. 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 16" water transmission main

