

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND MG OIL COMPANY  
REGARDING THE DONATION OF CERTAIN LAND FOR RIGHT OF WAY ALONG  
UNIVERSAL DRIVE.**

This Agreement is entered into by and between the CITY OF RAPID CITY, a municipal corporation of the State of South Dakota, located at 300 Sixth Street, Rapid City, SD 57701, herein after referred to as the "City," and MG OIL COMPANY, a South Dakota corporation, located at 1002 Main Street, Rapid City, SD 57701, herein after referred to as "MG Oil"

**RECITALS**

WHEREAS, the City is reconstructing Universal Drive adjacent to property generally located at 3290 Universal Drive which is owned by MG Oil; and

WHEREAS, the reconstruction of Universal Drive has been designated by the City as Universal Drive Project ST08-1701 (the "Project"); and

WHEREAS, the City needs a right of way corridor one hundred (100) feet wide (fifty (50) feet each side of the rebuilt roadway's centerline) to complete the Project; and

WHEREAS, in order to accommodate the one hundred (100) foot right of way corridor along the proposed alignment of the rebuilt street, the City needs to acquire land currently owned by MG Oil; and

WHEREAS, MG Oil is willing to donate the necessary right of way to the City under certain terms and conditions.

NOW THEREFORE, the parties hereby agree as follows:

1. The City has prepared a plat of Lot H1, which shows a tract of land to be acquired for highway purposes and which is located in Tract B, revised of Lien Industrial Park No. 2. A copy of the plat showing Lot H1 has been attached hereto as Exhibit "A" and is incorporated herein by this reference. MG Oil agrees to transfer title of Lot H1 to the City via a deed prepared by the City Attorney's Office upon execution of this Agreement. The City will submit an application to initiate proceedings to vacate a portion of the existing Universal Drive right-of-way immediately adjacent to MG Oil's property as it will no longer be needed for any public purpose. The portion of the lot to be vacated is shown on Exhibit "B" which has been attached hereto and is incorporated herein. MG Oil agrees to grant the City a 10' permanent utility easement immediately adjacent to the new Universal Drive right-of-way within the vacated area. MG Oil acknowledges the decision to vacate any right-of-way is within the sound discretion of the City Council.

2. The City agrees to construct the pavement and driveway configurations for the Universal Drive Reconstruction Project (ST08-1701) in conformity with the plans prepared for the August 26, 2008, bid opening. During construction of the Project, the City agrees to install two driveway approaches to the MG Oil property. The first driveway approach will be a

permanent concrete approach, forty (40) feet in width at the property line, directly across from the current driveway for Pete Lien & Sons. The second approach will be a temporary asphalt one, forty (40) feet in width at the property line and directly across from Lien Quarry Road. The drainage areas adjacent to the access points will be constructed so they have a side slope no steeper than a 6 to 1 slope. The existing one hundred twenty (120) foot gravel approach will be removed. MG Oil agrees, at such time as it is able to take access to its property from a street to the north of its property (currently shown as a collector street shown on the Major Street Plan), it will remove the temporary access, including all asphalt surfacing and restore it to a condition identical to the adjacent roadway sections at its own expense. For purposes of this Agreement, MG Oil will be considered able to take access from the collector street if the collector street has been constructed and accepted by the City and 1) a portion of the street sufficient to construct an access which meets City design standards is located immediately adjacent to MG Oil's property; or 2) a dedicated right of way or permanent access easement exists which provides a connection between MG Oil's property and the collector street.

3. The City agrees to maintain reasonable access to the MG Oil property during the construction of the Universal Drive Project.

4. MG Oil acknowledges that the City's promise to build the permanent and temporary approaches, vacate a portion of the current right-of-way, along with other good and valuable consideration, is sufficient consideration for the promises it has made herein.

5. If any section(s), or provision of this Agreement are declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision of this agreement if they can be given effect without the invalid section(s) or provisions.

6. This Agreement can only be amended in writing by the consent of all the parties hereto.

7. The parties' rights and obligations under this Agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota. Any dispute concerning this Agreement shall be venued and litigated in the Circuit Court for the Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

Dated this \_\_\_ day of \_\_\_\_\_, 2008.

CITY OF RAPID CITY

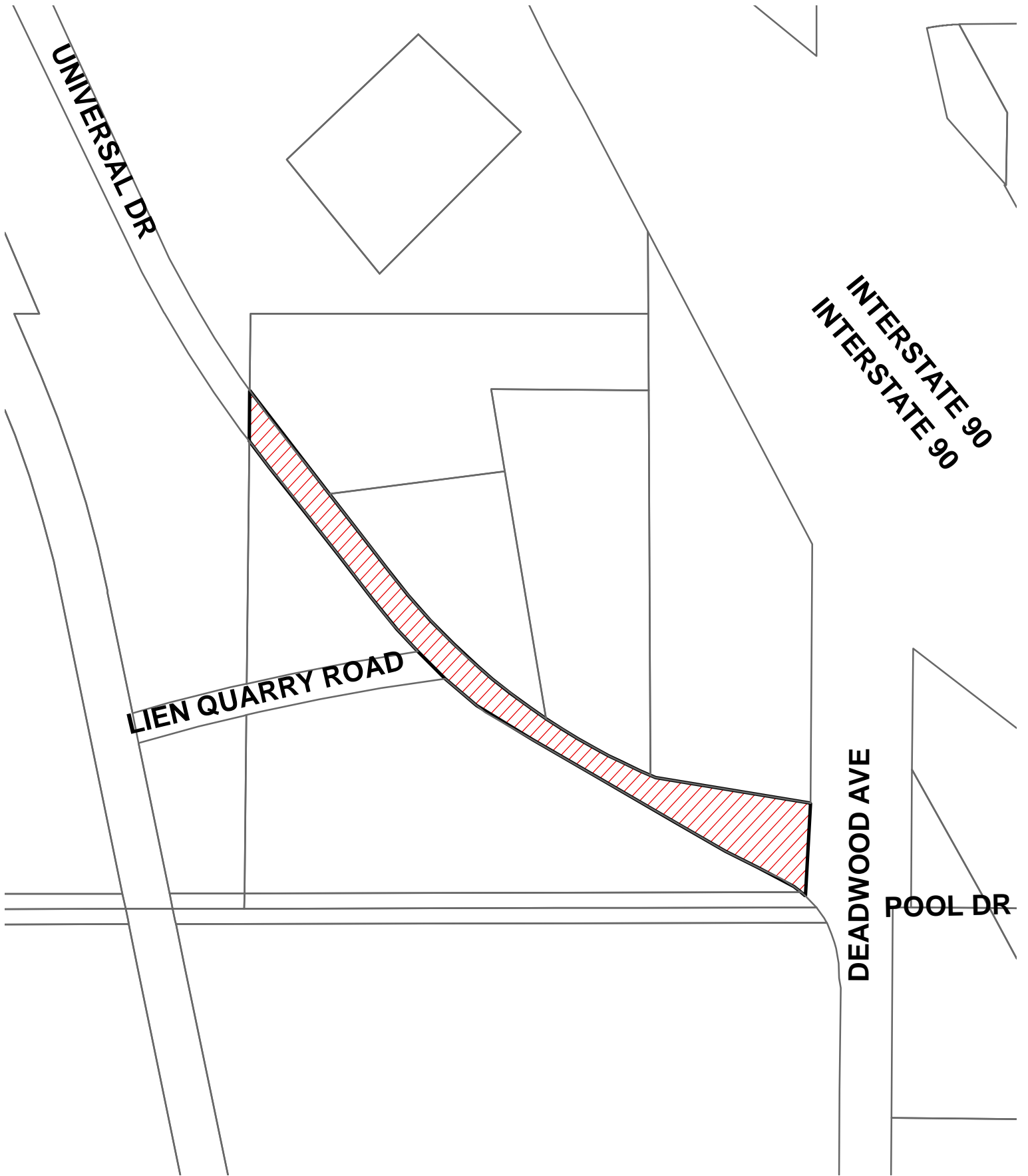
\_\_\_\_\_  
Mayor

ATTEST:

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



# EXHIBIT "A"



**UNIVERSAL DRIVE RECONSTRUCTION  
PROJECT NO. ST08-1701 CIP NO. 50398**

