

DEVELOPMENT AGREEMENT  
(ANNUAL APPROPRIATION GRANT)

BETWEEN

THE CITY OF DEADWOOD, SOUTH DAKOTA

AND TRD, LLC

CONCERNING

TAX INCREMENT DISTRICT NUMBER 14

CITY OF DEADWOOD, SOUTH DAKOTA

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**THIS DEVELOPMENT AGREEMENT**, pursuant to Resolution No. 2021-23, passed and approved on November 15<sup>th</sup>, 2021, is entered into by and between the **CITY OF DEADWOOD** a South Dakota, a municipal corporation (hereinafter called “CITY”); and TRD LLC, \_\_\_\_\_ (hereinafter referred to as “DEVELOPER”);

**WITNESSETH:**

**WHEREAS**, CITY recognizes the importance of its continued role in economic development through the creation of single family, multi-family housing and commercial property;

**WHEREAS**, by Resolution No. 2021-23, dated November 15<sup>th</sup>, 2021, pursuant to Chapter 11-9 of the South Dakota Codified Laws (as amended), (hereinafter called the “Act”), CITY created Tax Increment District Number 14 (the “District”) in accordance with the Act, to promote development of the TID Property, which development would not otherwise occur solely through private investment in the reasonably foreseeable future ( “TID”); and

**WHEREAS**, the Act authorizes the expenditure of funds derived within a TID for the payment of expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the CITY establishing TID, for grants, costs of public works or public improvements in the TID, plus other costs incidental to those expenditures and obligations, consistent with the project plan of the TID, which expenditures and monetary obligations constitute project costs, as defined in Section 11-9-14 of the Act (“Project Costs”); and

**WHEREAS**, on November 15<sup>th</sup>, 2021 by a CITY Resolution, the City adopted and approved the Tax Increment Project Plan providing for development of TID Property.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, CITY and DEVELOPER hereby agree as follows:

**Article I. DEFINITIONS**

Unless the context otherwise requires, the terms defined in this Article I shall, for all purposes of this Agreement and of any amendment, have the meanings herein specified:

“CITY” and “DEVELOPER” shall have the meanings specified above.

“Act” shall mean the Chapter 11-9 of the South Dakota Codified Laws, as defined above and as may be amended from time to time.

“Agreement” shall mean this document by and among CITY and DEVELOPER, which may be amended from time to time, pursuant to the provisions contained herein and which and a grant under Section 11-9-1(3) of the Act.

“Available Tax Increment Funds” shall mean the positive tax increments of the District;

**“Construction Schedule”** shall mean the timetable for constructing the improvements specified in the Project Plan and this Agreement, which timetable is more particularly set forth in Exhibit C, attached hereto and incorporated herein for all purposes and which timetable may be amended from time to time pursuant to the provisions of this Agreement.

**“District”** means Tax Increment District Number 14 of the City.

**“Effective Date”** shall mean the twentieth (20th) day after publication by the CITY’s City Council of the Resolution authorizing the execution of this Agreement by CITY.

**“Grant”** shall have the meaning set forth in the Act.

**“Phase”** shall mean a portion of the Project that is being constructed by DEVELOPER normally being a set number of units or acres out of the TID Property being constructed together during a specific timeline.

**“Project”** shall have the meaning specified in paragraph 3.1 of this Agreement, and as more specifically detailed in the Project Plan as (either or both) may be amended from time to time.

**“Project Costs”** shall have the meaning specified above.

**“Project Plan”** shall mean the final Project Plan as defined in the Act, as approved and as may be amended from time to time by the CITY.

**“Public Infrastructure Improvements”** shall have the meaning specified in Paragraph 3.02 of this Agreement, and as more specifically detailed in Exhibit B, the Project Plan as (either or both) may be amended from time to time.

**“TID”** shall have the meaning specified above.

**“TID Property ”** shall mean the real property subject to the Project Plan, which is more particularly described in Exhibit A.

Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

## **Article II. OBLIGATION AND REPRESENTATIONS**

**Section 2.01 Annual Appropriation Grant.** Subject to annual appropriation, CITY agrees to pay to DEVELOPER Available Tax Increment Funds revenues it receives from the District for the then current fiscal year. It is understood that the total Tax Increment District is set at a maximum amount of \$12,500,000, of which an amount not to exceed of \$11,250,000 will be passed on to the Developer, and the City will retain an amount up to \$1,250,000. Together with a computed interest at a rate of not to exceed 0% until the time set forth in Article XXII. Should the City not appropriate the Grant to the Developer, the TIF will terminate.

**THIS AGREEMENT DOES NOT CONSTITUTE A DEBT WITHIN THE MEANING OF ARTICLE 13 SECTION 4 OF THE SOUTH DAKOTA CONSTITUTION. NO OBLIGATION IS CREATED BEYOND A FISCAL YEAR IN WHICH AN ANNUAL APPROPRIATION HAS BEEN MADE.**

**Section 2.02 Grant.** The right to receive the Available Tax Increment Funds referred to in Section 2.01 is a grant under the Act and is subject to annual appropriation by the CITY. The Grant is a personal property right vested with DEVELOPER on the date of execution of this Agreement. The Grant shall constitute a specific project cost under the Act and is deemed made on the date of the execution of this Agreement. Nothing in this Agreement obligates the City to mandatorily annually appropriate. Each Grant is at the discretion of the City Council on an annual appropriation basis.

**Section 2.03 No Certificated Tax Increment Revenue Bonds.** CITY and DEVELOPER represent that they understand and agree that the CITY shall not issue any certificated tax increment revenue bonds to cover any costs directly or indirectly related to DEVELOPER's improvement of the TID under this Agreement. This agreement shall constitute the only obligation.

**Section 2.04 Tax Increment District Number 14.** CITY represents to DEVELOPER that as of the date hereof that the TID is a Tax Increment District established by CITY pursuant to Resolution Number 2021-23, passed and approved on November 15th, and has authority to carry on the functions and operations contemplated by this Agreement.

**Section 2.05 Developer's Representations.** DEVELOPER represents to CITY:

- (a) that DEVELOPER is an entity organized in the State of South Dakota;
- (b) that DEVELOPER has the authority to enter into this Agreement and to perform the requirements of this Agreement;
- (c) that DEVELOPER's performance under this Agreement shall not violate any applicable judgment, order, law or regulation;
- (d) that DEVELOPER's performance under this Agreement shall not result in the creation of any claim against CITY for money or performance, any lien, charge, encumbrance or security interest upon any asset of CITY; and
- (d) that DEVELOPER shall have sufficient capital to perform all of its obligations under this Agreement when it needs to have said capital; and that DEVELOPER owns the TID Property.

**Section 2.06 Approvals.** CITY and DEVELOPER represent each to the others that the execution, delivery, and performance of this Agreement on its part does not require consent or approval of any person that has not been obtained.

**Section 2.07 Assignment of Payments.** The CITY represents that DEVELOPER may rely upon the payments to be made to it out of the Available Tax Increment Funds as specified in this Agreement and that DEVELOPER may assign its rights to such payments, either in full or in trust, for the purposes of financing its obligations related to this Agreement, but DEVELOPER's right to such payments is subject to the other limitations of this Agreement. The CITY will issue a check or other form of payment made payable to the DEVELOPER or its assigns.

**Section 2.09 Continued Cooperation.** CITY and DEVELOPER represent each to the others that it shall make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires its continued cooperation.

**Section 2.10 Completion of Improvements.** CITY and DEVELOPER represent that they understand and agree that DEVELOPER shall diligently work to successfully complete any and all required improvements in accordance with the Construction Schedule attached as Exhibit C. This Exhibit is put forth in good faith by the Developer but it is understood that the timeline is subject to multiple variables that may impact the overall timing of the project.

**Section 2.11 No General Obligation of the CITY.** DEVELOPER represents that it understands that any contributions made by DEVELOPER in anticipation of reimbursement from Available Tax Increment Funds shall not be, nor construed to be, a general obligation of the CITY. The Agreement is payable only out of the special fund created under §11-9-31 of the Act. **THIS AGREEMENT SHALL NOT CONSTITUTE A GENERAL INDEBTEDNESS OF THE CITY NOR A CHARGE AGAINST ITS GENERAL TAXING POWER.** DEVELOPER shall bear all risks associated with reimbursement, including, but not limited to: incorrect estimates of tax increment, changes in tax rates or tax collections, changes in state law or interpretations thereof, changes in market or economic conditions impacting the project, changes in interest rates or capital markets, changes in building code requirements, changes in the governing body of the City, default by third parties, unanticipated effects covered under legal doctrine of force majeure, the decision by the Deadwood City Commission not to fund the annual appropriation, and/or other unanticipated factors.

**Section 2.12 Pledge of the State.** The State of South Dakota pursuant to Section 11-9-39.1 of the Act has pledged not to alter any of the rights vested in this Agreement until they are fully met and discharged.

### **Article III. THE PROJECT**

**Section 3.01 The Project.** The Project shall constitute and include the design, construction, assembly, installation and implementation of project described on Exhibit A

**Section 3.02 The Public Infrastructure Improvements.** The Public Infrastructure Improvements shall constitute and include the design, construction, assembly, installation and implementation of the project costs described on Exhibit B. The Costs are estimates only and actual costs may be higher or lower than the estimates.

**Section 3.03 Construction of the Public Infrastructure Improvements.** Public Infrastructure Improvements shall be constructed by the DEVELOPER through private contract. The CITY shall not bid nor contract any improvement described in this Agreement. The Developer shall submit all contracts, which is to include quantities and unit pricing, to the City to ensure that all infrastructure meets CITY's specification and for record keeping.

**Section 3.04 Financing of the Project.** The cost of the Project and Public Infrastructure Improvements and all other improvement expenses associated with the Project shall be through the use of DEVELOPER's own capital or through commercial or private construction loans/lines of credit secured solely by DEVELOPER. DEVELOPER may use any or part of the TID Property as collateral for the construction loan or loans as required for the financing of the Project. THESE AVAILABLE TAX INCREMENT FUND PAYMENTS MADE TO DEVELOPER ARE NOT INTENDED TO REIMBURSE DEVELOPER FOR ALL OF ITS COSTS INCURRED IN CONNECTION WITH PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT.

**Section 3.05 CITY Costs.** There shall be no CITY costs financed with the Tax Increment District. The CITY shall reimburse itself from Available Tax Increment Funds for imputed administrative costs in the amount of \$1,250,000 which shall occur on or before the twentieth anniversary of the creation of the Tax Increment District. This cost will be in the amount of 10% of the total Tax Increment Revenue received on a yearly basis. Once the full amount of \$1,250,000 has been received by the City, the City will forward the remaining amount to the Developer, not to exceed \$1,250,000 or 20 years from the year of creation.

#### DUTIES AND OBLIGATIONS OF DEVELOPER

(a) DEVELOPER agrees to complete, or cause to be completed, the improvements described in the Project Plan and this Agreement. DEVELOPER agrees to provide, or cause to be provided, all materials, labor, and services for completing the Project. DEVELOPER also agrees to obtain or cause to be obtained, all necessary permits and approvals from CITY and/or all other governmental agencies having jurisdiction over the construction of improvements to the TID Property.

(b) DEVELOPER shall prepare, or cause to be prepared plans and specifications for the Public Infrastructure Improvements in each Phase prior to starting any construction in said Phase. DEVELOPER shall not commence any construction on the Project until the plans and specifications for each Phase have been approved in writing by the appropriate department of CITY and State of South Dakota when applicable.

(c) DEVELOPER agrees to supervise the construction of the Project and cause the construction to be performed substantially in accordance with the Project Plan and the plans and specifications approved by the appropriate department of CITY. DEVELOPER also agrees to provide periodic reports of such construction and expenditures to CITY upon reasonable request.



(d) DEVELOPER shall be responsible for paying, or causing to be paid, to CITY and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the Project.

(e) DEVELOPER agrees to commence and complete the Project in accordance with the Construction Schedule. If substantial completion of the Project is delayed by reason of war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, fire or other casualty, court injunction, necessary condemnation proceedings, interference by third parties, or any circumstances reasonably beyond DEVELOPER's control, then at CITY's reasonable discretion, the deadlines set forth in the Construction Schedule shall be extended by the period of each such delay.

(f) DEVELOPER shall pay monthly rates and charges for all utilities (such as water, electricity, and sewer services) used by DEVELOPER in regard to the development of the TID Property for all areas owned by DEVELOPER during construction of the Project, and for so long as DEVELOPER owns those areas.

(g) DEVELOPER shall cooperate with the CITY in providing all necessary information to CITY in order to assist the CITY in complying with this Agreement.

(h) DEVELOPER shall submit written annual reports, starting no later than thirty (30) days following the end of the fiscal year in which the TID was created detailing the amount of Available Tax Increment Funds received and the amounts thereof applied to pay DEVELOPER'S principal and interest on its private financing.

(i) DEVELOPER acknowledges that an amount not to exceed \$2,000,000 of the total Tax Increment Revenue will be designated towards the construction of the turning lanes. It is understood that the Turning Lanes will require final approval by the South Dakota Department of Transportation.

(j) DEVELOPER will comply with all City of Deadwood Ordinances. Developer will show proof of Financial Guarantees as it is stated in section 17.04.120 of the City's Ordinances, to demonstrate financial solvency to ensure that the project will be completed.

**Article IV. DUTIES AND OBLIGATIONS OF THE CITY.**

The CITY hereby pledges all Available Tax Increment Funds as full reimbursement to DEVELOPER, up to the maximum total amount specified in this Agreement. This is also subject to Article II, Section 2.01.

The City retains the right to defend the validity of the Tax Increment District should it be challenged.

The City will work with the Developer and South Dakota Department of Transportation, and any other agency that may be involved, to assist in a technical manner for the construction of the Turning Lanes.

**Article V. INSURANCE**

DEVELOPER shall maintain a policy of liability insurance, acceptable to the CITY, with liability limits of at least two million dollars \$2,000,000.00 that names the City of Deadwood as an additional insured. Such a policy shall remain in effect until the CITY accepts the improvements.

**Article VI. DEFAULT AND TERMINATION**

In the event that DEVELOPER fails to commence construction of the Project, fails to complete construction of the Project, or fails to perform any other obligation pursuant to the terms of this Agreement, CITY may terminate this Agreement if DEVELOPER does not take adequate steps to cure its failure within ninety (90) calendar days after receiving written notice from CITY requesting the failure be cured.

**Article VII. INDEMNIFICATION**

DEVELOPER covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, CITY (and the elected officials, employees, officers, directors, and representatives of CITY) from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to DEVELOPER's negligence, willful misconduct or criminal conduct in its activities under this Agreement, including any such acts or omissions of DEVELOPER, any agent, officer, director, representative, employee, consultant or subconsultants of DEVELOPER, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this Agreement, all without, however, waiving any governmental immunity available to CITY under South Dakota Law and without waiving any defenses of the parties under South Dakota Law. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. DEVELOPER shall promptly advise CITY in writing of any claim or demand against CITY related to or arising out of DEVELOPER's activities under this Agreement and shall see to the investigation and defense of such claim or demand at DEVELOPER's cost to the extent required under the Indemnity in this paragraph. CITY shall have the right, at their option and at their own expense, to participate in such defense without relieving DEVELOPER of any of its obligations under this paragraph.

**Article VIII. SITE INSPECTION**

DEVELOPER shall allow CITY reasonable access to the TID Property owned or controlled by DEVELOPER for inspections during and upon completion of construction of the Project and to documents and records necessary for CITY to assess DEVELOPER's compliance with this Agreement.

**Article IX. LIABILITY**

As between CITY and DEVELOPER, DEVELOPER shall be solely responsible for compensation payable to any employee or contractor of DEVELOPER, and none of DEVELOPER's employees or contractors will be deemed to be employees or contractors of CITY as a result of the Agreement. To the extent permitted by South Dakota law, no director, officer, employee or agent of CITY shall be personally responsible for any liability arising under or growing out of this Agreement.

Developer agrees to fully indemnify and hold harmless , City (and the elected officials, employees, officers, directors, and representatives of City) from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, cases of action, liability and suits of any kind and nature by brought by any employees or contractors of Developer.

**Article X. EXAMINATION OF RECORDS**

CITY reserves the right to conduct examinations, during regular business hours and following notice to DEVELOPER by CITY, of the books and records related to this Agreement no matter where books and records are located.

**Article XI. NON-WAIVER**

Any provision of this Agreement may be amended or waived if done in writing and is signed by CITY, through a Resolution passed and approved by its City Council and DEVELOPER. No course of dealing on the part of CITY, or DEVELOPER nor any failure or delay by CITY or DEVELOPER in exercising any right, power, or privilege under this Agreement shall operate as a waiver of any right, power or privilege owing under this Agreement.

**Article XII. ASSIGNMENT**

(a) All covenants and agreements contained herein by CITY shall bind their successors and assigns and shall inure to the benefit of DEVELOPER and their successors and assigns.

(b) CITY may assign their rights and obligations under this Agreement, to any governmental Entity without prior consent of DEVELOPER. If CITY assigns their rights and obligations under this Agreement then CITY will send DEVELOPER written notice of such assignment within fifteen (15) days of such assignment.

(c) Any restrictions herein on the transfer or assignment of DEVELOPER's interest in this Agreement shall not apply to and shall not prevent the assignment of this Agreement to any corporation or other entity with which DEVELOPER may merge or consolidate or that may succeed to a controlling interest in the business of DEVELOPER; nor shall the foregoing apply to or prevent DEVELOPER from assigning the proceeds of this Agreement to a lending institution or other provider of capital in order to obtain financing for the Project. In no event, however, shall CITY be obligated in any way to the aforementioned financial institution or other provider of capital. DEVELOPER shall indemnify the CITY as to any claims by third parties that payments made pursuant to this Agreement should have been made to anyone besides the DEVELOPER.

(d) DEVELOPER may make partial or complete assignment of the Agreement, but only upon written consent of the CITY, which consent shall not be unreasonable withheld. Absent written consent by the CITY to the assignment of the Grant Amount, the DEVELOPER shall indemnify the CITY as to any claims by third parties that payments made pursuant to this Agreement should have been made to anyone besides the DEVELOPER.

#### **Article XIII. CONFLICT OF INTEREST**

DEVELOPER acknowledges that the Charter of CITY and its ethics code prohibit a CITY officer or employee from having a financial interest in any contract with the CITY or any CITY agency such as CITY-owned utilities. DEVELOPER warrants and certifies, and this Agreement is made in reliance thereon, that they, their officers, employees and agents are neither officers nor employees of CITY as prohibited above.

#### **Article XIV. ENTIRE AGREEMENT**

This written Agreement, embodies the final and entire agreement between the parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that if there is a conflict between an exhibit and a provision of this Agreement, the provision of this Agreement shall prevail over the exhibit.

#### **Article XV. CHANGES AND AMENDMENTS**

Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by CITY and DEVELOPER and evidenced by passage of a subsequent CITY Resolution, as to CITY's approval.

It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable to DEVELOPER's services hereunder may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto and shall become a part hereof as of the effective

date of the rule, regulation or law.

Each annual appropriation which is made more than five years after the District has been created shall constitute an amendment described in SDCL § 11-9-3. Since no additional project costs will be provided for in the amendment, SDCL § 11-9-23 shall not apply and no further action by the City will be required.

**Section 15.01 SEVERABILITY**

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the charter, code, or Ordinances of CITY, then and in that event it is the intent of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intent of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a similar clause or provision as may be possible, legal, valid and enforceable.

**Article XVI. LEGAL AUTHORITY**

Each persons executing this Agreement on behalf of the CITY and DEVELOPER, represents, warrants, assures and guarantees that he has full legal authority to (i) execute this Agreement on behalf of CITY and/or DEVELOPER, respectively, and (ii) to bind CITY and/or DEVELOPER to all of the terms, conditions, provisions and obligations herein contained.

**Article XVII. VENUE AND GOVERNING LAW**

THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF SOUTH DAKOTA. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in State Courts, Lawrence County, South Dakota.

**Article XVIII. TAXES & LICENSES**

DEVELOPER shall pay, on or before their respective due dates, to the appropriate collecting authority all Federal, State, and local taxes and fees that are now or may hereafter be levied upon the TID Property or upon DEVELOPER or upon the business conducted on the TID Property, or upon any of DEVELOPER's property used in connection therewith, including employment taxes; and DEVELOPER shall maintain in current status all federal State, and local licenses and permits required for the operation of the business conducted by DEVELOPER.

**Article XIX. PARTIES' REPRESENTATIONS**

This Agreement has been jointly negotiated by the CITY and DEVELOPER and shall not be construed against a party because that party may have primarily assumed responsibility for the

drafting of this Agreement.

**Article XX. NOTICE**

Any notice sent under this Agreement shall be written and mailed with sufficient postage, sent by certified mail, return receipt requested, documented facsimile or delivered personally to an officer of the receiving party at the following addresses:

**CITY**

City of Deadwood  
102 Sherman Street  
Deadwood, SD 57732  
Phone: \_605-578-2600

**DEVELOPER**

TRD, LLC  
Contact: Leah M. Berg, P.E., Project Manager  
16 Peck Street  
Deadwood, SD 57732  
Phone: (605) 716-4646  
**Fax:** (605) 716-1144  
Email: LBerg@proacesinc.com

Each party may change its address by written notice in accordance with this Article. Any communication delivered by facsimile transmission shall be deemed delivered when receipt of such transmission is received if such receipt is during normal business hours or the next business day if such receipt is after normal business hours. Any communication so delivered in person shall be deemed received when receipted for by or actually received by an officer of the party to whom the communication is properly addressed. All notices, requests or consents under this Contract shall be (a) in writing, (b) delivered to a principal officer or managing entity of the recipient in person, by courier or mail or by facsimile, telegram, telex, cablegram or similar transmission, and (c) effective only upon actual receipt by such person's business office during normal business hours. If received after normal business hours, the notice will be considered to have been received on the next business day after such delivery. Whenever any notice is required to be given by applicable law or this Contract, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Each party shall have the right from time to time and at any time to change its address by giving at least 15 days' written notice to the other party.

**Article XXI. CAPTIONS**

All captions used herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to the agreement between the parties hereto.

**Article XXII. TERM**

The term of this Agreement shall commence on the Effective Date and end on the date which is the earlier to occur of the following:

- (i) the date which all monetary obligations under this Agreement have been paid and CITY expenditures reimbursed; or
- (ii) the date this Agreement is terminated as provided in Article VIII; or
- (iii) 20 years from the creation of the District or pursuant to Article II, Section 2.01

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed this \_\_\_\_\_ day of August, 20\_\_\_\_.

**CITY OF \_\_\_\_\_**

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Finance Officer  
SEAL

\_\_\_\_\_  
**TRD, LLC**

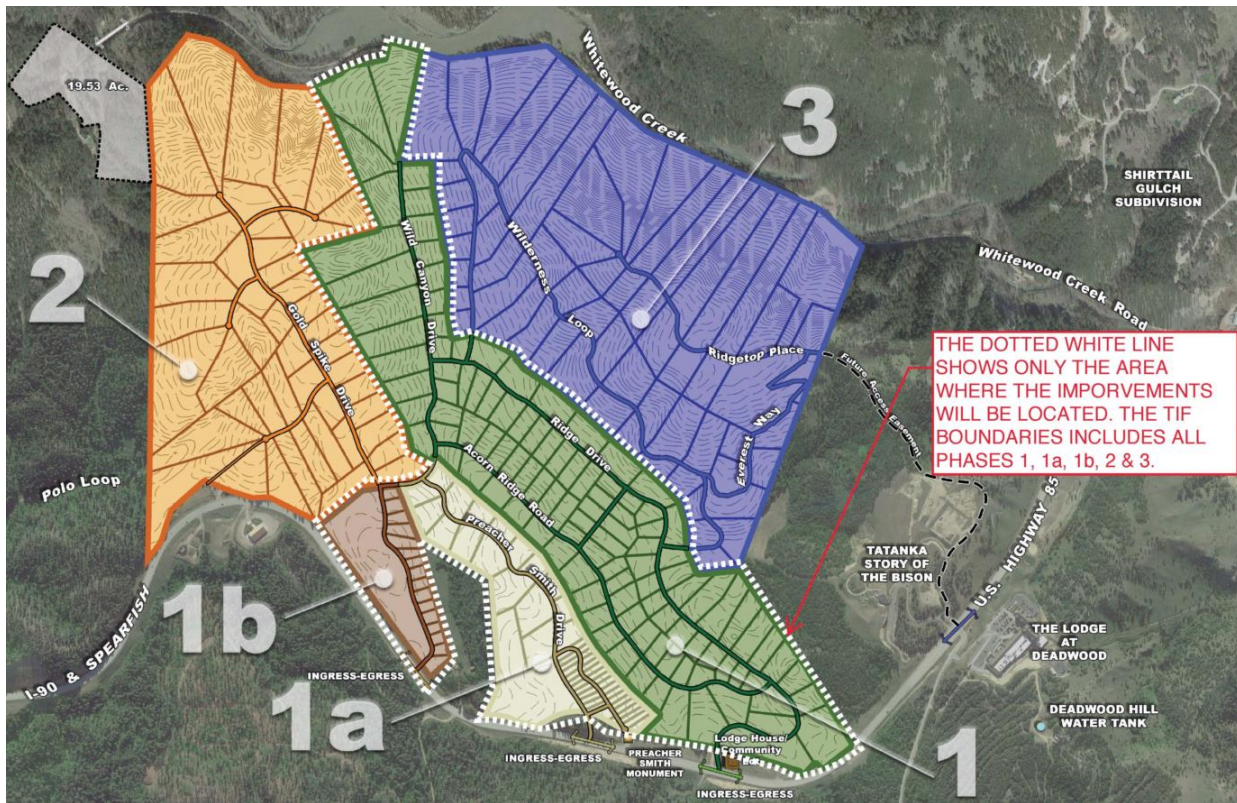
**COUNTER SIGNED  
RESIDENT ATTORNEY**

\_\_\_\_\_  
By: Randy Horner  
Its: President

\_\_\_\_\_

# EXHIBIT A

## Project Site



- This map depicts the TIF 14 Boundary as a whole
- The improvements for the TIF will be within the dotted white line
- The turning lanes will be constructed at a later date, when determined by SD Department of Transportation. SD DOT will also determine the exact location of the turning lane(s)



## EXHIBIT B

### Estimated Public Infrastructure Improvements

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#### CONSTRUCTION ESTIMATED UNIT COSTS

the RIDGE Development  
Deadwood, South Dakota



Item No.	Description of Item Limited to: PHASE 1, 1a, & 1b Ridge Drive, Wild Canyon Drive, Preacher Smith Drive & Gold Spike Dr. Part 1	Estimated Quantity	Unit	Estimate	
				Based on current pricing 12/1/21	
				UNIT PRICE	TOTAL
1	Mobilization	1.0	LS	\$ 250,000.00	\$ 250,000.00
2	Miscellaneous and Incidentals	1.0	LS	\$ 300,000.00	\$ 300,000.00
3	Erosion and Sediment Control	1.0	LS	\$ 200,000.00	\$ 200,000.00
4	Construction Staking	1.0	LS	\$ 150,000.00	\$ 150,000.00
5	Traffic Control	1.0	LS	\$ 75,000.00	\$ 75,000.00
6	Clearing / Grubbing / Mass Grading	229,633.0	CY	\$ 15.00	\$ 3,444,495.00
7	Roadway Construction - Grading, Ditches, Recompact Subgrade	29,237.0	CY	\$ 22.09	\$ 645,845.33
8	Culvert, 60' Dia. CMP, Installed	160.0	LF	\$ 750.00	\$ 120,000.00
9	Cilvert, 48" Dia. CMP, Installed	260.0	LF	\$ 713.46	\$ 185,499.60
10	Cilvert, 36" Dia. CMP, Installed	200.0	LF	\$ 300.00	\$ 60,000.00
11	Asphalt Pavement, 6" thickness, Class G/E, Type 1, PG 64-22	12,771.0	TON	\$ 110.00	\$ 1,404,810.00
12	Aggregate Base Course, 8" thickness	17,028.0	TON	\$ 23.00	\$ 391,644.00
13	Aggregate surfacing, shoulders, 1' wide, 6" thickness, each side of roadway	1,154.3	TON	\$ 23.00	\$ 26,547.75
14	8" Water Main, C-900, DR-18	15,390.0	LF	\$ 63.90	\$ 983,421.00
15	6" Water Main, C-900, DR-18, Fire Hydrant Leads	384.0	LF	\$ 64.31	\$ 24,695.04
16	90° Bend 8" Water Main	15.0	EA	\$ 700.00	\$ 10,500.00
17	45° Bend 8" Water Main	20.0	EA	\$ 675.00	\$ 13,500.00
18	22.5° Bend 8" Water Main	30.0	EA	\$ 650.00	\$ 19,500.00
19	11.25° Bend 8" Water Main	20.0	EA	\$ 650.00	\$ 13,000.00
20	8" Water Main 8" X 6" X 8" Tee	40.0	EA	\$ 850.00	\$ 34,000.00
21	8" Water Main Gate Valve with Box	36.0	EA	\$ 2,585.00	\$ 93,060.00
22	Pipe Trench insulation	60.0	SF	\$ 14.00	\$ 840.00
23	Connect to Existing 10" Water Main within gravel approach	1.0	EA	\$ 1,800.00	\$ 1,800.00
24	Flush Mounted Tracer Wire Access Box	32.0	EA	\$ 350.00	\$ 11,200.00
25	Fire Hydrant with Aux Valve	32.0	EA	\$ 5,611.46	\$ 179,566.72
26	Sanitary Sewer Main - Gravity Collection 8" Dia.	15,390.0	LF	\$ 47.10	\$ 724,869.00
27	48" Sanitary Sewer Manhole, 8'-12' Depth	36.0	EA	\$ 5,254.46	\$ 189,160.56
28	60" Sanitary Sewer Manhole, 8'-14' Depth	2.0	EA	\$ 6,800.00	\$ 13,600.00
29	Sanitary Sewer Force Main, 6" PVC	8,015.0	LF	\$ 60.00	\$ 480,900.00
30	Connect to Existing Sanitary Sewer Manhole	1.0	EA	\$ 1,850.00	\$ 1,850.00
31	Unclassified Excavation	25.0	CY	\$ 12.50	\$ 312.50
32	Rock Excavation (trench style non-blasting)	212,850.0	CY	\$ 10.00	\$ 2,128,500.00
33	Furnish wet well, 84" Dia Manhole, w/precast lid & access hatch	2.0	EA	\$ 22,000.00	\$ 44,000.00
34	Install wet well manhole	2.0	EA	\$ 15,000.00	\$ 30,000.00
35	Furnish valve manhole, 72" Dia w/precast lid & access hatch	2.0	EA	\$ 14,000.00	\$ 28,000.00
36	Install valve manhole	2.0	EA	\$ 10,000.00	\$ 20,000.00
37	Furnish and install submersible pumps, rail system, cables and appurtenances	2.0	EA	\$ 60,000.00	\$ 120,000.00
38	Saniatry Sewer Lift Station Sys., 250' Vertical Lift Mech. Equip & Elec. Controls	2.0	EA	\$ 280,000.00	\$ 560,000.00
39	Lift Station Control Building with fencing and access	2.0	EA	\$ 190,000.00	\$ 380,000.00
40	Common Utility Trench within ROW, Electric, Natural Gas and Communications	18,560.0	LF	\$ 33.90	\$ 629,184.00


41	SDDOT ROW Rock Mass Removal, Grading, and Rock Crushing Operation	30,000.0	CY	\$ 20.00	\$ 600,000.00
42	Street Lighting, Timber Posts with Solar Light Fixtures	47.0	EA	\$ 2,000.00	\$ 94,000.00
43	SDDOT PCC Hwy 85 Approach	150.0	SY	\$ 97.00	\$ 14,550.00
44	Concrete Encasement for utility (20 LF)	2.0	EA	\$ 1,800.00	\$ 3,600.00
45	Rip-Rap	250.0	TON	\$ 20.00	\$ 5,000.00
46	Gravel Surfacing	500.0	TON	\$ 23.00	\$ 11,500.00
47	Street Sign installed	8.0	EA	\$ 1,090.00	\$ 8,720.00
48	Topsoil Placement - Source onsite	7,980.0	CY	\$ 6.00	\$ 47,880.00
49	Seed, Fertilize and Cover/Mulch	71,820.0	SY	\$ 1.80	\$ 129,276.00
50	1" Poly Water Service Connection, Corp Stop & Curb Stop (45 LF)	157.0	EA	\$ 2,975.50	\$ 467,153.50
51	4" Sanitary Sewer Service Connection with PVC Cleanout (45 LF)	157.0	EA	\$ 2,153.25	\$ 338,060.25
52	Ditch reconstruction toward Whitewood Creek, check-dams, rip-rap, protection	1,306.0	LF	\$ 12.00	\$ 15,672.00
53	Relocate hazardous overhead 911 emergency cable underground	5,384.0	LF	\$ 27.86	\$ 150,000.00
54	Burning of large slash pile from fire reduction tree harvest operation	15.0	EA	\$ 5,500.00	\$ 82,500.00
55	Material Testing (trench compaction, base course and asphalt)	1.0	LS	\$ 15,000.00	\$ 15,000.00
				Construction Cost Sub-Total : \$ 15,972,212.25	
				Engineering Design, Geotech, survey, platting, Const Docs & Const Admin: \$ 950,000.00	
				<b>TOTAL : \$ 16,922,212.25</b>	

Item No.	Description of Item Limited to: SDDOT Double (Right/Left) turn lanes Hwy 85 Ridge Drive, Wild Canyon Drive, Preacher Smith Drive & Gold Spike Dr. Part 1	Estimated Quantity	Unit	Estimate Based on current pricing 12/1/21	
				UNIT PRICE	TOTAL
56	Mobilization Each Approach Location will be constructed separately	1.0	LS	\$ 60,000.00	\$ 60,000.00
57	Construction Staking	1.0	LS	\$ 15,000.00	\$ 15,000.00
58	Three Man Survey Crew (SDDOT)	1.0	LS	\$ 5,400.00	\$ 5,400.00
59	Remove and Reset Cable Guard Rail	742.0	LF	\$ 45.00	\$ 33,390.00
60	Remove PCC Pavement	5,905.0	SqYd	\$ 12.00	\$ 70,860.00
61	Remove Asphalt Concrete Surfacing	60.0	SqYd	\$ 20.00	\$ 1,200.00
62	Incidental Work	1.0	LS	\$ 21,000.00	\$ 21,000.00
63	Base Course	2,144.1	TON	\$ 38.00	\$ 81,475.80
64	Striping and Pavment Markings temporary and permanent	1.0	LS	\$ 12,000.00	\$ 12,000.00
65	Construction Barricade	12.0	EA	\$ 500.00	\$ 6,000.00
66	Traffic Control	1.0	LS	\$ 24,000.00	\$ 24,000.00
67	Contractor furnished barrow excavation	31,495.1	CuYd	\$ 13.00	\$ 409,436.30
68	Rock Excavation	10.0	CuYd	\$ 115.00	\$ 1,150.00
69	Grading, material placement and compaction for wighway widening	12,705.6	CuYd	\$ 24.00	\$ 304,934.40
70	Grading within ROW for ditch draiange system	9,842.2	CuYd	\$ 26.00	\$ 255,897.20
71	8" Nonreinforced PCC Pavemnt	6,352.7	SqYd	\$ 85.00	\$ 539,979.50
72	Aggregate surfaced shoulder	664.4	TON	\$ 38.00	\$ 25,247.20
73	Topsoil placement, contractor furnished	820.2	CuYd	\$ 50.00	\$ 41,010.00
74	Erosion Control Blanket for steep slope	8,244.4	SqYd	\$ 5.00	\$ 41,222.00
75	Seeding, fertilizing ans mulching	15,626.1	SqYd	\$ 4.00	\$ 62,504.40
76	Material Testing	1.0	LS	\$ 15,000.00	\$ 15,000.00
78	SDDOT Certified Inspector and Construction Administration	1.0	LS	\$ 40,000.00	\$ 40,000.00
				SDDOT Turn Lanes Construction Cost Sub-Total : \$ 2,066,706.80	

**TOTAL : \$ 18,988,919.05**

EXHIBIT C

**Preliminary Construction Schedule**

	
INITIAL CONSTRUCTION SCHEDULE	
Task	Time Frame
Fire Fuel Reduction Tree Harvest Operations	Spring - Summer 2021
Preliminary Design and planning for infrastructure improvements	Spring - Summer 2021
Clearing Grubbing and Mass Grading	Summer – Fall 2021
SDDOT Right-Of-Way Rock removal and mass grading for ingress/egress to the development	Summer – Fall 2021
Utility coordination and planning: Butte Electric, BH Energy, Lumen, MDU, Midco and Vast	Fall 2021
Final Design and planning for infrastructure improvements	Winter 2021-2022
Drainage features and improvements	Winter 2021-2022
Underground utilities – water and sanitary sewer from City termination through Phase 1, 1a, and 1b	Winter - Spring 2022
Common Utility trench and dry utilities	Winter - Spring 2022
Burning of slash piles	Winter 2022
Sanitary Sewer Lift Stations	Spring 2022
SDDOT Approach location construction	Winter – Spring 2022
Road Construction Phase 1b Gold Spike Drive Part 1 Asphalt Roadway, open ditch drainage, solar street lights	Spring 2022
Road Construction through Phase 1 and 1a Asphalt Roadway, open ditch drainage, solar street lights	Summer – Fall 2022
SDDOT Double Turn Lanes (Right and Left) as required	TBD
Future Phase 2 and 3 will be designed and constructed following Phase 1, 1a and 1b and are not planned for construction at this time	TBD
Note - All time frames included shall be weather and supply dependent	