

RESOLUTION NO. 12-28

**A RESOLUTION OF THE DRAPER CITY COUNCIL
DETERMINING REIMBURSEMENT FOR ASPHALT COSTS ASSOCIATED WITH
THE WIDTH OF 13800 SOUTH RIGHT-OF-WAY AND STORM DRAIN COSTS AT
APPROXIMATELY 150 EAST 13800 SOUTH**

WHEREAS, Draper City Municipal Code Chapter 5-15 sets forth the terms of public improvement installation and financing and authorizes reimbursement for oversizing public facilities not included in the Capital Improvement Plan as well as authorizing credit and reimbursement for installation of system improvements included in the City's Capital Improvement Plan; and

WHEREAS, Section 5-15-040(c) requires developers seeking credits for system improvements to submit, prior to commencing construction, acceptable engineering drawings and specifications and construction cost estimates to the City Engineer in accordance with current City Standards, and the City Engineer shall recommend the maximum amount of credits and reimbursement for the proposed system improvements based on either these cost estimates or on alternative engineering criteria and construction cost estimates if the estimates submitted by the developer are deemed by the City Engineer to be either unreliable, inaccurate, or excessive; and

WHEREAS, Section 5-15-040(c) further requires the City Council to determine, by resolution, the amount of credits/reimbursements due to a developer, taking into consideration the proportionate share of the benefit of the improvements to the developer's project and to fulfilling the Capital Facilities Plan; and

WHEREAS, Section 5-15-040(f) provides a means for the developer to appeal the credit and reimbursement amount to the City Council when extraordinary, unanticipated costs are incurred in the actual construction of the improvements; and

WHEREAS, Dr. Carl Pew, the developer and proprietor of South Mountain Pet Care development, has submitted an appeal requesting reimbursement for additional asphalt pavement transition costs associated with constructing the roadway width of 13800 South Street fronting the development; and

WHEREAS, the developer and proprietor of South Mountain Pet Care development has incurred additional costs for constructing a storm drain outfall from his development to the existing public storm drain because relocation of the existing fiber optic utility is not feasible based upon costs and the proposal to loop the storm drain under the fiber optic utility creates an ongoing maintenance burden to the City of Draper; and

WHEREAS, Dr. Pew has requested the City of Draper reimburse the additional cost for storm drain alignment options that eliminate the lowered portion of storm drain piping; and

WHEREAS, Draper City future storm drain maintenance costs will be reduced through the elimination of a section of storm drain pipe lower than the constructed outlet piping; and

WHEREAS, the City Engineer recommends the City pay for the oversizing of 13800 South Street and for the additional costs of storm drain relocation and alignment;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Determination of Appeal for Pavement Transition Reimbursement.

Based upon the recommendation of the City Engineer and in compliance with Section 5-15-040(c) of the Draper City Municipal Code, this City Council hereby determines the amount of credit due to Dr. Carl Pew (developer) for the South Mountain Pet Care development to be as follows:

For over-sizing the south half of 13800 South from 12.5' wide (required for a local street) to 32.5' wide (required for the current width of 13800 South), the upsized portion of pavement transition is 20 feet. The pavement transition totals 22 feet, of which Dr. Carl Pew will pay for two feet in width. This street is on the Capital Facilities Plan adopted in December 2007 and is eligible for reimbursement from Transportation Impact Fees.

Pavement Transition Area:	130 feet long x 22 feet wide =	2,860 sq. ft.	
Estimated Cost for Construction:			\$33,667.43
Upsized portion of roadway transition paid by Draper City (20 feet):			90.91%
Local road portion of pavement transition (Existing 10.5' + new 2'):			9.09%
	Reimbursement by City for up-sized portion:		<u>\$30,607.06</u>

Section 2. Determination of Appeal for Additional Storm Drain Construction Costs. Based upon the recommendation of the Operation Manager and City Engineer, this City Council hereby determines to reimburse Dr. Carl Pew (developer) for the South Mountain Pet Care \$7,326.07 for the additional project storm drain installation costs necessary to eliminate future City costs of maintaining a looped storm drain improvement.

Section 3. Letter or Certificate. Based upon this review and determination, the City Manager shall, prior to commencement of construction of the system improvements, provide the developer with a letter or certificate setting forth the maximum dollar amount of credit and reimbursement, the rationale for the credit and reimbursement, and the legal description or other adequate description of the system improvements for which credits and reimbursement will be approved. The developer shall sign and date a duplicate copy of such letter or certificate indicating developer's agreement to the terms set forth and return the signed document to the City Manager prior to any credit and reimbursement being paid or granted. The failure of the developer to sign, date and return such document within 30 days from receipt shall nullify the credit and reimbursement approval.

Section 4. Compliance with Chapter 5-15. All other provisions of Chapter 5-15 of the Draper City Municipal Code shall be strictly observed.

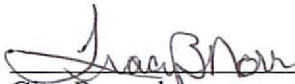
Section 5. Severability. If any section, part, or provision of this Resolution is held invalid, or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts, and provisions of this Resolution shall be severable.

Section 6. Effective Date. This Resolution shall become effective immediately upon its passage.

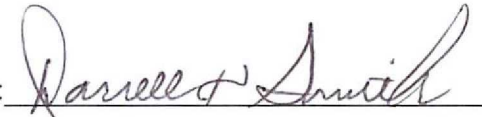
**PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY,
STATE OF UTAH, ON THE 10th DAY OF July, 2012.**

ATTEST:

DRAPER CITY



City Recorder

By: 

Mayor

