

**AGREEMENT FOR CONSTRUCTION OF STREET IMPROVEMENT BETWEEN
THE CITY OF RAPID CITY AND LAZY P6 LAND COMPANY**

THIS AGREEMENT is made and entered into by and between the **CITY OF RAPID CITY**, a municipal corporation, of 300 Sixth Street, Rapid City, SD 57701, hereinafter referred to as the “City,” and **LAZY P6 LAND COMPANY**, 505 Catron Boulevard, Rapid City, SD 57701 hereinafter referred to as the “Developer”.

WHEREAS, the Developer desires to dedicate H-lots on portions of E. Watts Lane and Fargo Lane; and

WHEREAS, the Developer plans to construct public improvements in the in the dedicated H-lots, including streets and utilities; and

WHEREAS, the Developer has submitted construction drawings for the public improvements and H-lots; and

WHEREAS, the City has agreed to accept the H-lots upon the completion of the construction of the public improvements according to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein set forth, it is agreed by the parties as follows:

1. The Developer hereby agrees to contract with a professional engineer to design the public improvements. The public improvements plans shall be designed in accordance with the City’s Infrastructure Design Criteria and the City’s Standard Specifications for Public Works Construction. All plans shall be approved by the City prior to starting construction.

2. The Developer hereby agrees to contract with a professional engineer to provide construction administration services consisting of submittal reviews, site visits to view construction, final walk through, and answer contractor questions for the construction. The City reserves the right to observe and inspect all related construction activities.

3. The Developer agrees to construct the public improvements according to the approved plans. No changes or variances from the plans shall be allowed unless approved by the City in writing.

4. The Developer shall be responsible for all construction costs associated with the public improvements. The public improvements subject to this Agreement include the following: grading, base course, street pavement, curb/gutter, water main and related appurtenances, sewer main and related appurtenances, seeding or sodding, erosion control and other related work.

5. The Developer shall conduct a pre-construction meeting prior to commencing construction of the public improvements. The Developer shall notify the City and all private and public utilities affected by the project of the meeting date and time a minimum of five working

days prior to the meeting. The Developer, the Developer's professional engineer, and the Developer's construction contractor shall attend the pre-construction meeting.

6. The Developer agrees to obtain all applicable permits prior to construction.

7. The Developer agrees to provide a two-year warranty that all materials furnished and installed and work completed pursuant to this contract will be new, and shall be of good quality, free from defects, and in conformance with the approved plans and specifications. The warranty shall also meet the requirements of the City's Standard Specifications for Public Works Construction, Section 7.65.

8. 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 improvements to be constructed shall be provided to the City to secure the warranty for a period of two years. The surety shall be in a form acceptable to the City Attorney.

9. Acceptance of the project by the City will not be considered until all construction and testing is completed and as-built plans submitted. Upon the City's approval of the same, acceptance will be documented by issuance of an acceptance letter by the City.

10. 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).

11. 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 the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

12. 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.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Director

