LIFE SAFETY LOAN AGREEMENT
BETWEEN THE SEED, LLC AND THE CITY OF RAPID CITY

This Life Safety Loan Agreement (hereinafter “Agreement”) is made by and between the CITY OF RAPID CITY, a South Dakota municipal corporation, (“City”) of 300 Sixth Street, Rapid City, SD 57701, and THE SEED, LLC, (“The Seed”), of 1181 Parkwood Road, Rapid City, SD 57701.

WHEREAS, the City has established a Life Safety Fund Loan Program to assist building owners with the installation of sprinkler systems in existing buildings; and

WHEREAS, The Seed has made application to the City to participate in the Life Safety Fund Loan Program; and

WHEREAS, the City’s Life Safety Loan Fund Committee has recommended approval of The Seed’s application; and

WHEREAS, the City deems it in the best interest of the City of Rapid City to enter into an agreement with The Seed to help insure that fire sprinkler systems are installed in the building located at 412 Fifth Street to facilitate the public safety.

NOW THEREFORE, be it agreed by the parties as follows:

1. Recitals. 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. Purpose. The purpose of this Agreement is to promote public safety by providing low cost funds to finance the installation of a fire suppression system in the building located at 412 Fifth Street, Rapid City, South Dakota, the real property being legally described as follows:

   Aby’s Feed & Seed Condominium Unit 2 & ½ interest in common area
   (hereinafter “Building”).

3. Loan Amount. The City agrees to loan The Seed an amount not to exceed Eighty Thousand Dollars ($80,000) or eighty percent (80%) of the actual cost of installing a fire suppression system in the Building, whichever is less. Before the City of Rapid City will distribute any funds under this agreement, The Seed must provide documentation of the amount actually expended for the installation of the fire sprinkler system to the City Finance Officer.

4. Security. Prior to the distribution of the funds by the City of Rapid City, The Seed shall provide the City of Rapid City with a bank-issued letter of credit in a form acceptable to the City Attorney. The amount of the letter of credit shall be equal to the amount of the loan.

5. Interest. The rate of interest on the loan shall be two percent (2%) per annum.
6. **Term.** The term of the loan shall be seven (7) years.

7. **Payments.** Payments shall be made on or before the dates specified in the amortization schedule, attached hereto and incorporated herein by this reference. Payments shall be made in the amounts shown on Exhibit A. Should the amount of the loan be less than the full Eighty Thousand Dollars ($80,000) as based upon the actual cost of installation, the payment schedule above shall be adjusted by the City’s Finance Officer to reduce the amount of the payments. A revised amortization schedule shall be prepared by the Finance Officer to reflect the adjustments. Such schedule shall be signed by the parties, attached hereto and made a part hereof.

8. **Yearly Interest Credit.** The Seed shall provide to the City’s Finance Officer documentation of the cost of the letter of credit required by paragraph 2 for each year of the loan term. Each year following the first year of repayment, the City’s Finance Officer shall determine the Seed’s eligibility for the yearly interest credit provided by Section 3.28.020 of the Rapid City Municipal Code. If the Seed qualifies for the credit in any year, the Finance Officer shall send written notice to the Seed of the credit amount and the corresponding reduction in payment amount for that year’s payments.

9. **Default.** If the Seed fails to fully and timely make any payment by its due date, the City shall have the right to draw on the letter of credit to repay the loan in full. Should the letter of credit’s terms require a draw in excess of the balance due, the City shall refund any excess, less its costs, expenses and attorneys fees, to the Seed. The breach of any other provision of this Agreement by the Seed shall entitle the City to accelerate the payments due, draw on the letter of credit, and pursue any other legal or equitable remedies available to it.

10. **Indemnification.** The Seed agrees to defend, indemnify and hold the City, its officers, employees and agents harmless from and against any and all liability, personal injury, property damage, costs and expenses (including, without limitation in any way attorneys’ fees and expenses of litigation), relating in any way to or arising out of the Seed use of the funds loaned pursuant to this Agreement or its installation of a fire suppression system.

11. **Binding Effect.** The covenants and agreements contained in this Agreement shall apply to, inure to the benefit of and be binding upon the parties hereto and upon their respective successors, administrators, executors and assigns.

12. **Waivers.** The failure by one party to require performance of any provision herein shall not affect that party’s right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

13. **Amendments.** This Agreement may only be amended by a written document duly executed by all parties.
14. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

15. **Counterparts.** This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

16. **Headings.** The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

17. **Construction and Venue.** This Agreement shall be interpreted under the laws of the State of South Dakota without regard to provisions on conflict of laws. All litigation under this Agreement shall be take place in the Circuit Court of Pennington County, South Dakota.

Dated this _____ day of ______________, 2016.

**THE SEED, LLC**

By ___________________________

 (signature)

____________________________

 (printed name)

Its ___________________________

 (title)

By ___________________________

 (signature)

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 (printed name)

Its ___________________________

 (title)

By ___________________________

 (signature)

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 (printed name)

Its ___________________________

 (title)
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15. **Counterparts.** This Agreement may be executed in counterparts, each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

16. **Headings.** The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of the provision.

17. **Construal and Venue.** This Agreement shall be interpreted under the laws of the State of South Dakota, without regard to provisions on conflict of laws. All litigation under this Agreement shall be in a place in the Circuit Court of Pennington County, South Dakota.

Dated this 3rd day of October, 2016.

THE SEED, LLC

By ____________________________

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Dated this _____ day of ____________, 2016.

CITY OF RAPID CITY

________________________________________
Steve Allender, Mayor

ATTEST:

______________________________
Pauline Sumption, Finance Officer

(seal)
EXHIBIT A

Life Safety Loan Agreement Between The Seed, LLC and the City of Rapid City