

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND ZANDSTRA
CONSTRUCTION, INCORPORATED AND ZCO, INC. FOR THE
COMPLETION OF SUBDIVISION IMPROVEMENTS.**

This Agreement is made and entered into by and between the City of Rapid City, of 300 Sixth Street, Rapid City, South Dakota, 57701, hereinafter referred to as the "City", Zandstra Construction, Incorporated, of 3840 South Highway 79, P.O. Box 1940, Rapid City, South Dakota, 57709, and ZCO, Inc., of 333 West Boulevard, Ste. 400, Rapid City, South Dakota, 57701, hereinafter referred to as "Developer."

WHEREAS, the Developer is seeking approval of a final plat for the Marlin Industrial Park, legally described as:

EXISTING LEGAL DESCRIPTION:

A portion of the unplatted balance of the NW1/4 NE1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

PROPOSED LEGAL DESCRIPTION:

Lots 8, 9, 17, 22, and 23 of Marlin Industrial Park, located in the unplatted portion of the NW1/4 NE1/4, Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

WHEREAS, the Developer has submitted a subdivision bond to secure the completion of subdivision improvements as required by the City's subdivision regulations; and

WHEREAS, the City is requesting that the Developer provide a date by which the required improvements will be completed, or if they are not, the City can draw on the bond; and

WHEREAS, the Developer is willing to provide a final date for the completion of the improvements so that the City will accept the bond which is a requirement for approval of the final plat.

NOW THEREFORE, the parties agree as follows:

1. This agreement pertains to subdivision bond # 104759695 issued by Travelers Casualty and Surety Company of America.
2. The Developer agrees to complete the required subdivision improvements secured by the above bond by February 1, 2010.
3. If the required improvements are not completed by February 1, 2010, the parties agree that the City has the option, if it so chooses, to draw on the above

described bond and complete the improvements. The City will notify the Developer prior to drawing on the bond and will provide the Developer with a reasonable amount of time to complete the remaining improvements.

- 4. In exchange for the Developer’s agreement to the terms contained in paragraphs 1, 2 and 3 of this document, the City agrees to accept the bond submitted by the Developer.
- 5. 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

Alan Hanks, Mayor

ATTEST:

Finance Officer

(SEAL)

ZANDSTRA CONSTRUCTION,
INCORPORATED

By: _____
Its: _____

ZCO, INC.

By: _____
Its: _____

State of South Dakota)
)ss.
County of Pennington)

On this ____ day of _____, 2008, before me, the undersigned officer, personally appeared Alan Hanks and James F. Preston, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City and that they, as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing as such Mayor and Finance Officer of the City of Rapid City.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, State of South Dakota

My Commission Expires:

(SEAL)

State of South Dakota)
)ss.
County of Pennington)

On this ____ day of _____, 2008, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of ZANDSTRA CONSTRUCTION, INC., and that as such, being duly authorized so to do, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, State of South Dakota

My Commission Expires:

(SEAL)

State of South Dakota)
)ss.
County of Pennington)

On this ____ day of _____, 2008, before me, the undersigned officer, personally appeared _____, who acknowledged himself to

be the _____ of ZCO, INC., and that as such, being duly authorized so to do, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, State of South Dakota

My Commission Expires:

(SEAL)