

RESOLUTION NO. _____

A RESOLUTION AND INCLUDED AGREEMENT, RECONSIDERING AND REVISING A CONDITION IN REGARD TO THE APPROVAL OF THE SUBDIVISION PERMIT AND PLAT FOR A PORTION OF THE W 1/2 SECTION 10, T.14N., R.67W., OF THE 6TH P.M., LARAMIE COUNTY, WY, KNOWN AS "ROUNDTOP RANCH ESTATES".

WHEREAS, Wyoming State Statutes §18-5-201 to 18-5-208; §18-5-301 to 18-5-315 authorize Laramie County, in promoting the public health, safety, morals and general welfare of the county, to regulate the use of land through zoning in unincorporated Laramie County; and

WHEREAS, the Laramie County Board of Commissioners previously adopted the Laramie County Land Use Regulations; and

WHEREAS, the proposed subdivision and plat is in accordance with section 2-1-101 (a-e) of the Laramie County Land Use Regulations; and

WHEREAS, on July 6, 2021 the Laramie County Board of Commissioners issued a resolution approving the subdivision permit for Roundtop Ranch Estates with conditions; and

WHEREAS, after consultation with the agents for the subdivision, the Laramie County Board of Commissioners wish to reconsider and refine the condition placed on the recordation of plat but the developer would be required to pay for paving Round Top Road from Sunset Mountain Road north to Horse Creek Road as a result of the average daily traffic exceeding 350 vehicles per day and that the paving shall meet the current standards under the Laramie County land use regulations.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF LARAMIE COUNTY, WYOMING, as follows:

The Laramie County Board of Commissioners finds that:

- a. The condition that the developer of Roundtop Ranch Estates complete paving of Round Top Road from Sunset Mountain Road north to Horse Creek Road, prior to recordation of the approved plat in this matter, has the potential to act as a bar or significant limitation to subsequent development of the subdivision project. While the requirement for said paving is in accord with the Laramie County Land Use Regulations, and those regulations shall remain unchanged, it is not in the interest of the general health, welfare and future interests of Laramie County that this development be halted or significantly delayed by this requirement.

Therefore, be it resolved: The Board of Commissioners hereby reconsiders and provides an *alternative condition* in regard to the existing and previously approved requirement that paving of Round Top Road be completed prior to recordation of the approved plat. The Developer of Roundtop Ranch Estates (Hereinafter "Developer" and/or its corporate entities) by signature hereon agrees to be bound by the terms and conditions herein

The following additional and alternative condition shall be imposed on the approval of the subdivision plat in permit as an alternative. This alternative condition applies solely to the instant developer and is not transferable to any subsequent owner or developer of the Roundtop Ranch Estates subdivision. Further, by signature hereon, the Developer agrees and warrants it understands and will comply with the terms and conditions herein:

1. Prior to recordation of the plat and as a condition precedent to said recordation and commencement of development and/or construction in the approved subdivision, the Developer of Roundtop Ranch Estates shall to provide to Laramie County for its review and approval a performance bond in an amount equal to the cost of the required paving indicated herein and to be in an amount no less than one million, seven hundred thousand dollars (\$ 1,700,000). Said paving to be completed within twenty-four (24) months from the date of the approval of this Resolution.
 - a. Approval of the bond by the County is required prior to recordation of the plat. Approval or disapproval of any proposed bond is entirely in the discretion of Laramie County. Laramie County shall be the sole obligee and beneficiary under the bond. The process of approving any submitted proposed bond may include investigations into the surety and/or the credit worthiness and financial stability of the Developer.

The bond shall not be transferable and shall reference the obligations contained in this resolution.

- b. The Developer and/or its corporate entity, by signature affixed to this resolution agrees and warrants to contractually bound to the conditions herein, including but not limited to its obligations in relation to the bond and the requirement to complete the paving.
 - c. At the expiration of the time period as indicated above, in the event the paving as described herein is not completed, the County may declare the developer in default. "Default" is not limited to a complete absence of action on the paving project and may include partial completion as well as inadequacies in compliance with regulations and standards, as determined by Laramie County and or its designated agents. In the absence of any mutual written agreement between the parties for an extension or modification of these conditions, upon declaration and notice of default, the County may proceed against and acquire the funds from the bond in order that it may complete the paving project. The method, methodology and timing of any completion of the paving project after acquisition of the bond funds by the County, shall be in the sole discretion of the County.
2. The purpose of the bond is to insure the Developer's compliance with the requirement for paving Round Top Road from Sunset Mountain Road north to Horse Creek Road, in accord with the applicable regulations, standards and conditions herein.
 3. The amount of the bond as provided herein, shall not limit or determine any costs required or borne by the Developer in order to complete the paving project. The bond exists as a minimum guarantee for the County in the event of the default or failure of the Developer to perform the project and is not a limitation or modification on the requirement of the Developer to complete the project or the costs paid by the Developer for such completion.
 4. The revision of the condition represented by this resolution does not limit, abrogate or modify any other requirements under law or regulation, including, but not limited to, the Laramie County Land Use Regulations. Any and all other conditions previously applied in the course of the approval of this subdivision permit and plat, remain in full force and effect.
 5. The bond shall be conditioned on the performance and completion of the paving, within the time periods specified and in accord with the terms and conditions provided in this resolution as well as the requirements imposed by law and regulation.
 6. Said paving shall be in conformance with applicable regulations and standards, including but not limited to, the Laramie County Land Use Regulations and subject to inspection and approval by the Director of the Laramie County Public Works Department.
 7. Terms and conditions of the bond shall be in accord with applicable law, state and federal, including but not limited to, Wyo. Stat. Ann. § 16-6-112, 114.
 8. Laramie County retains complete and sole discretion to allow an extension of time for completion of the paving, upon a showing of good cause by Developer. The determination of the existence, or lack thereof, of "good cause" shall be entirely in the discretion of Laramie County and any extension may include the addition of other guarantees and/or sureties as well as additional or subsequent conditions. Any extension or modification of the conditions reflected herein, shall only be by mutual written agreement between the Developer and Laramie County. "Good cause" shall not include financial instability, failure or refusal of third parties or institutions to provide credit or financing, the sale, transfer or acquisition of the Developer or its entity to or by another corporation, company or individual, or bankruptcy on the part of the Developer and/or any of its associated corporate entities.
 9. The conditions of the bond shall include, but not be limited to, the following:
 - a. The invocation and assertion of Laramie County's governmental immunity.
 - b. Venue for any actions which might be required on the part of the County to access and enforce on the bond in the event of default, being in the State of Wyoming, First Judicial District

10. Additional Terms:

- a. By execution of this resolution and agreement herein Laramie County does not waive and retains all applicable immunities, including but not limited to its governmental immunity provided by common law and W.S. § 1-39-101 et seq.
- b. Developer and/or its associated corporate entities agrees to the full extent of the law agrees to fully indemnify and defend Laramie County in regard to any claims, demands or suit brought in relation to or as a consequence of, this resolution and its terms and conditions.
- c. Enforcement of the terms and conditions herein may be brought by the County by any method authorized under law, including but not limited to injunction, specific performance, allegations of breach and/or through the provisions of W.S. § 18-2-115 et seq., or other form of judicial action and any other applicable method under law. The selection of one remedy for enforcement shall not prohibit the implementation of any other remedies available under law. All remedies available may be used individually or cumulatively.
- d. Venue for any action under the terms and conditions herein shall be the District Court, First Judicial District, State of Wyoming.
- e. This resolution and agreement is intended to benefit only the parties hereto no third party beneficiaries are encompassed or implied by the terms and conditions herein.
- f. Should any section or provision of this resolution and agreement be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of the regulation as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.
- g. By signature below, the individual signing on behalf of the Developer asserts and warrant that they have the authority to bind all parties relevant to and necessary to carry out the intent and purposes of this resolution and agreement.

It is further resolved and ordered that this revised condition on the approval of the subdivision plat and permit for Roundtop Ranch Estates, is an alternative, and the Developer maintains the option to proceed in accord with the initial condition requiring the paving of Round Top Road prior to recordation of the plat.

PRESENTED, READ AND ADOPTED THIS ___ DAY OF _____, 2021.

ROUNDTOP RANCH ESTATES

LARAMIE COUNTY BOARD OF
COMMISSIONERS



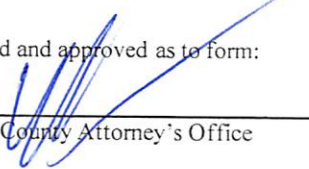
(Title Signature)

Gunnar Malm, Chairman

ATTEST:

Debra K. Lee, Laramie County Clerk

Reviewed and approved as to form:



Laramie County Attorney's Office