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\* A PROFESSIONAL CORPORATION

October 19, 2007

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RAPID CITY  
PUBLIC WORKS

Mr. Dirk Jablonski, P.E.  
Public Works Director  
CITY OF RAPID CITY  
300 Sixth Street  
Rapid City, SD 57701

*Re: Rapid Construction Contractor's License # 52625*

Dear Mr. Jablonski:

Please be advised that my office has been retained by Rapid Construction Company in connection with the Trenching Board's October 12, 2007, determination to revoke the company's contractor's license with the City. Please consider this letter as Rapid Construction's appeal of that determination.

While Rapid Construction acknowledges that used pipe was placed into the water main excavation on the Crimson Court project in violation of city specifications, that pipe was immediately and voluntarily removed by the company upon inspection. There was no stop work order issued and no used pipe was incorporated into the project which I believe was completed without further complications. In an effort to prevent any future occurrences like this, Rapid Construction has adopted a company-wide policy designed to prevent the use of any used materials on public utility projects.

Rapid Construction has been in business in Rapid City for 40 years and employs over 50 people whose families depend upon the \$1 million in wages and income paid out by the company ever year. It strives to provide quality and cost-effective excavation and utility services to local developers and property owners and has millions of dollars in outstanding projects in progress at any one time. At present, the company has outstanding projects totaling approximately \$10 million including the Rushmore Crossing utility project which was recently awarded and is subject to a rather strict completion deadline.

Mr. Dirk Jablonski

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We certainly understand and appreciate the City's authority to regulate its contractors through its licensing requirements and we acknowledge our responsibility for the problem on the Crimson Court project. However, the sanction imposed here is overly harsh. We believe that there are a myriad of "middle ground" solutions which would accomplish the city's objective of deterring future specification violations without destroying Rapid Construction's business and livelihood. To be certain, a year-long revocation of its trenching license would be devastating to the company which would be forced to lay off a large percentage of its labor force to even have a chance of surviving the resulting lost revenues. In fact, the company may not recover at all. One appropriate alternative would be to require the company to pay for periodic inspections of the company's utility trenching projects over the next year. Another would be to impose a reasonable monetary penalty/fine. Yet another would be to require the project supervisors for the company to undergo additional education and training and/or for the company to institute appropriate policies to prevent the problem from occurring again (something the company has already done). There are certainly others. Any one or more of these alternatives would present a more than sufficient deterrent while still preserving Rapid Construction's continued viability.

Based upon the foregoing, Rapid Construction respectfully appeals from the October 12, 2007, decision and judgment of the Trenching Board and requests the City Council's consideration of a more reasonable sanction under the circumstances presented.

Thank you.

Sincerely yours,



Barton R. Banks

BRB:dim

cc: Rapid Construction