



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-5035

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## Community Planning & Development Services

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### MEMORANDUM

TO: Chairman and Members of the Public Works Committee

FROM: Brett Limbaugh, Director

DATE: April 30, 2013

RE: Standardized Development Agreement.

A committee of City Staff and developers has been working on a standardized development agreement form over the last year and has completed a final draft of the agreement for review by the Public Works Committee. Prior to scheduling this development agreement for review by the Public Works Committee, Staff notified the development community and held an open house on April 4<sup>th</sup> at City Hall. There were no significant issues raised regarding the draft document at the open house. The committee members responsible for creation of the document included Bill Freytag, Jeff Lage, Joel Landeen, Brett Limbaugh, Dale Tech, Pat Tlustos, and Terry Wolterstorff.

The development agreement would be executed by both the developer and City when public improvements are required as the result of a subdivision or other development process. The City and development community have used various types of development agreements in the past but there has not been a standardized form. A standardized agreement is preferable for the following reasons:

- It establishes uniform timelines for both developer and city obligations;
- It expedites the review and approval time frame;
- It ensures a "level playing field" as the same document would be used uniformly for all developments; and
- It requires specific surety be held by the City until such time as the improvements are completed.
- It allows the developer to divide the project into three separate construction phases. i.e. underground utilities, street improvements, and landscape improvements.



EQUAL OPPORTUNITY EMPLOYER

In order to further expedite the development agreement process Staff is requesting authorization from the City Council to allow the Director of Public Works to execute the development agreement on behalf of the City rather than requiring approval for each agreement through the City Council. The standardization of the form would alleviate the necessity for City Council to review each development agreement. Also there are many instances when the developer will need to revise improvement costs, phasing, surety amounts or timeframes and the Public Works Director should be authorized to execute these amendments to the agreements on behalf of the City Council as well.

The standardized agreement provides requires the developer to complete the public improvements in accordance with the approved construction drawings prior to the issuance of a letter of initial and final acceptance. Staff is requesting that the City Council authorize the Public Works Director to formally accept the completed public improvements on behalf of the City rather than requiring the approval from City Council through the public hearing process.

### **Recommendation:**

Staff is requesting that the Public Works Committee forward a recommendation to City Council authorizing the City Staff to use the development agreement as drafted and to prepare amendments to the Municipal Code that allow the Public Works Director to execute the development agreement, development agreement amendments, and perform the initial and final acceptance of public improvements on behalf of the City Council per the provisions outlined within the development agreement.

A summary of the development agreement process is shown below and the draft agreement has also been attached.

## **Development Agreement Process Timelines**

### **Subdivision Plat and Development Agreement**

1. Developer submits the Development Agreement at the same time as the Final Plat and Engineering Development Plans to the City for review and processing;
2. Once approved the developer submits an executed copy of the Development Agreement and surety for public improvements equal to 115% of the construction cost to the City;
3. City executes the documents and records the final plat and files the Development Agreement;
4. Developer can proceed with construction of the public improvements.

### **Initial Acceptance**

1. Developer submits as-built construction plans for the completed public improvements and requests an inspection at least 6 months prior to the expiration of the surety;
2. City has 15 business days to review as-built construction plans and either approve or request revisions;
3. Developer makes corrections to the plans and submits "certified as-built plans" to the City and may request inspection;
4. City has 15 business days to inspect as-built improvements;
5. City has 5 business days from the inspection date to generate and send punchlist;
6. Developer has 30 days to correct items on the punchlist;

7. City Performs second inspection to verify that the punchlist items have been completed and then sends a letter of Initial Acceptance beginning a 24 month warranty period provided the Developer has provided a warranty surety in the amount of 10% of the value of the improvements.

### **Final Acceptance**

1. City notifies the Developer and conducts an inspection 60 to 90 days prior to expiration of the two year Warranty Period;
2. City has 10 business days from the inspection date to generate and send the punchlist to Developer;
3. Developer has 30 days to correct items on the punchlist;
4. City performs second inspection to verify that the punchlist items have been completed and then sends a letter of Completion and Final Acceptance;
5. City releases warranty surety.

\* Note – City may extend the Warranty Period for an additional 12 months to allow time to make needed repairs or replacements.

\* Note – If the dates within the Development Agreement are not met by either the City or Developer the Default provisions within Development Agreement apply.