

**ADDENDUM TO AGREEMENT BETWEEN CITY OF RAPID CITY AND
DESTINATION RAPID CITY FOR CONSTRUCTION AND DEVELOPMENT OF
MEMORIAL PARK PROMENADE**

This Addendum to Agreement is entered into effective the _____ day of _____, 2014, by and between the **City of Rapid City** (hereinafter “City”), a municipal corporation, of 300 Sixth Street, Rapid City, South Dakota 57701, and **Downtown Rapid City Economic Development Corporation**, a South Dakota corporation, d/b/a Destination Rapid City, of 512 Main Street, Suite 980, Rapid City, South Dakota 57701 (hereinafter “DRC”).

WHEREAS, on August 20, 2012 DRC and City entered into an Agreement concerning the construction and funding of improvements to Memorial Park known as the Memorial Park Promenade (“the Agreement”); and

WHEREAS, since approval of the original agreement, the scope of the project has been expanded to include an area known as Legacy Commons to be located on the west side of Memorial Park; and

WHEREAS, the Promenade and Legacy Commons are designed to increase the use of Memorial Park by citizens and tourists; and

WHEREAS, Legacy Commons includes, among other things, a playground and activity pods that are designed for use by children and families; and

WHEREAS, the addition of Legacy Commons expands the scope of the Promenade improvements to the west to include the western portion of Memorial Park adjacent to Mount Rushmore Road; and

WHEREAS, the increased use of Memorial Park because of Legacy Commons will create a need for parking in close proximity to the improvements; and

WHEREAS, to date no parking has been added to Memorial Park as part of the Promenade and Legacy Commons improvements; and

WHEREAS, DRC desires to solicit bids for construction of the Legacy Commons Parking Area in West Memorial Park across Mount Rushmore Road and to coordinate its construction with the City to accommodate the increased need for parking as a result of the improvements to Memorial Park; and

WHEREAS, although DRC and the City had discussed including a park-and-ride use on the area of the Legacy Commons Parking Area, the parties do not wish to include such a use in the plan for West Memorial Park at this time; and

WHEREAS, City desires to give DRC access to the West Memorial Park area and to permit DRC to construct these improvements to West Memorial Park; and

WHEREAS, City recognizes the benefit to its citizens and city visitors from construction of Legacy Commons and the Legacy Commons Parking Area and believes that construction of these improvements is in the best interests of the community and will enhance the quality of life in the City; and

WHEREAS, the parties mutually desire to reduce their understandings and agreements to writing by executing this Addendum to Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Incorporation of Recitals. The aforementioned recitals are incorporated herein by reference as if more fully set forth hereinafter.
2. Expansion of the Project. The Agreement defined the Project as the Memorial Park Promenade. The parties now agree to expand the scope of the Project to include the areas known and understood by the parties as Legacy Commons (Exhibit 1) and Legacy Commons Parking Area (Exhibit 2). The obligations and rights assumed by the parties in Sections 2 and 3 of the Agreement are hereby assumed by the parties with regard to Legacy Commons and Legacy Commons Parking Area, except as otherwise provided in Section 3 of this Addendum. To the extent that the Agreement refers only to Memorial Park, this Addendum expands the area of the Project to include the area known as West Memorial Park, located west of Mount Rushmore Road and north of Omaha Street, as reflected on Exhibit 2.
3. Legacy Commons Parking Area. The parties agree that DRC will be responsible for construction of the parking lots and the adjacent stormwater detention only for the Legacy Commons Parking Area. Accordingly, DRC assumes the obligations and rights under Paragraph 2 of the Agreement regarding the parking areas and the adjacent stormwater detention only, and not any other improvements as discussed in Exhibit 2. Upon completion of the parking lots and the adjacent stormwater detention, City agrees to assume all responsibility upon the date of acceptance, as defined in Paragraph 7 of the Agreement.

City agrees that it intends to construct the remainder of the improvements within the Legacy Commons Parking Area, to include improvements to the storm water management area, bike/pedestrian trail, lighting, irrigation, and landscaping, among other improvements, as shown on Exhibit 2. The parties agree that construction of these improvements is conditional upon the City's identification, designation, and/or receipt of funding adequate to make the improvements. City acknowledges that it has identified \$240,000 within the 2015 City budget for the project; the parties agree that more funding will be needed before construction of all of the improvements to Legacy Commons Parking Area may occur. If only a portion of the necessary funding is obtained by City, the parties agree that the plan for the Legacy Commons Parking Area may be modified from Exhibit 2 and that the improvements may be reduced and/or decreased in scope in light of the limited funding.

4. Acceptance in Phases. The parties agree that the Project may be completed by DRC in phases and accepted by City in phases, and that the provisions found in Sections 6, 7, and 8 may occur in phases as the Project is completed.

5. Balance of Agreement Terms Remain. All other terms of the Agreement shall remain unchanged, and in full force and effect. In the case of conflict of another portion of the Agreement not amended hereby with the amended sections above, the amended sections, and the intent of those amended sections, shall control.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed in the manner appropriate to each, to be effective as set forth herein.

DOWNTOWN RAPID CITY ECONOMIC
DEVELOPMENT CORPORATION

Dan Senftner, President

State of South Dakota)
 SS.
County of Pennington)

On this the _____ day of _____, 2014, before me, the undersigned officer, personally appeared Dan Senftner, who acknowledged himself to be the President of Downtown the Rapid City Economic Development Corporation, a South Dakota corporation, and that as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Rapid City Economic Development Corporation by himself as President.

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

Notary Public, South Dakota

My Commission Expires:

(SEAL)

CITY OF RAPID CITY

Sam Kooiker, Mayor

(SEAL)

ATTEST:

Finance Officer