



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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MEMORANDUM

TO: Legal and Finance Committee

FROM: Carla Cushman, Assistant City Attorney

DATE: February 10, 2016

RE: Revocable No-Build Easement for the Dahl Art Center at 713 7th Street

The City leases the Dahl Arts Center located at 713 7th Street to the Rapid City Fine Arts Center. The neighboring property to the west at 716 Quincy Street is owned by UNK Properties, LLC. UNK Properties is undergoing an extensive renovation project on its property, and as part of that renovation, they wish to install windows on a portion of the east side of the building adjacent to Quincy Street. The windows will face an outdoor green space on the Dahl's property.

Unfortunately, the plans to add windows created a problem with the International Building Code, which provides that no additional openings (including windows) are to be constructed in any building that is within ten feet of an adjacent structure. UNK Properties' building is built on the property line, and under the applicable zoning code the Dahl could construct its building to the property line. Because the Dahl *could* expand its building to within ten feet of the 716 Quincy Street property, no additional openings would be allowed under the IBC.

To solve this problem, UNK Properties approached City staff about obtaining a no-build easement on a portion of the Dahl property to allow some windows to be added to its property. Thereafter, I contacted the Dahl to discuss its future plans for the green space on Quincy Street that would be burdened by the no-build easement. They consulted with their Board and confirmed that the no-build easement would not undermine their future intentions to develop the open outdoor space.

The revocable no-build easement before you has been approved by City staff (including Building Services), the Dahl, and UNK Properties. The no-build easement is revocable at the will of the City, so if in the future the City and the Dahl would like to expand the building to within 10 feet



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of the neighboring property at 716 Quincy Street, then UNK Properties or its successor would have to remove the windows and close the openings. This easement is similar to an easement entered into by the City with regard to the building that houses the Shops at Main Street Square.

If you have any questions or would like to discuss this further, please feel free to give me a call at 394.4140 or send me an email at carla.cushman@rcgov.org.