

Prepared by:
 Brian D. Hagg, Esq.
 WHITING HAGG & HAGG, LLP
 P.O. Box 8008
 Rapid City, SD 57709-8008
 605-348-1125

**PETITION TO CITY OF RAPID CITY, SOUTH DAKOTA
 TO VOID AND SET ASIDE
 AGREEMENT WAIVING RIGHT OF PROTEST (WORP)**

WHEREAS, the City approved Initial Development Plan #05PD077, and an Agreement Waiving Right to Protest (WORP) was stipulated between the City and the undersigned Owner (Developer) as a condition thereto, same of which pertains to the property described as follows:

A tract of land located in Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 35, T1N, R7E, BHM, Pennington County, South Dakota a $\frac{1}{2}$ inch pipe, thence S00°02'58"E along the section 1/16 line, a distance of 868.95 feet to the Point of Beginning. Thence first course: S00°02'58"E along the section 1/16 line, a distance of 467.74 feet to the southeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 35, T1N, R7E, BHM, a 5/8" rebar w/cap "4225"; Thence second course: S00°02'58"E along the section 1/16 line a distance of 1331.33 feet to a 5/8" rebar w/cap "4225", which is the southeast corner of the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 35, T1N, R7E, BHM; Thence third course: N89°24'46"W along the east-west Section $\frac{1}{4}$ line of same Section 35, a distance of 626.98 feet to a point on the south edge of proposed Sammis Trail and the beginning of a nontangent curve, concave to the northeast, having a radius of 427.00 feet, a delta angle of 23°34'48", a chord bearing of N37°36'06"W, and a chord length of 174.49 feet; Thence fourth course: Northwesterly along said curve and the south edge of proposed Sammis Trail, through an angle of 23°34'48", and an arc length of 175.73 to the beginning of a tangent line: Thence fifth course: N25°48'42"W, along the south edge of proposed Sammis Trail, a distance of 414.39 feet to the beginning of a tangent curve, concave to the southwest, having a radius of 481.20 feet, a delta angle of 56°52'22", a chord bearing of N54°14'53"W, and a chord length of 458.28 feet; to the beginning of a nontangent line and the east right of

way line of South Dakota Highway 16; Thence sixth course N07°18'56"E, along the east right of way line of South Dakota Highway 16, a distance of 557.85 feet to a 5/8" rebar w/cap "4225"; Thence seventh course: N07°18'56"E along the east right of way line of South Dakota Highway 16, a distance of 598.55 feet; Thence eighth course: S83°18'29"E a distance of 1144.76 feet to the Point of Beginning, all located in the W½ of the NW¼ of Section 35, T1N, R7E, BHM, Pennington County, South Dakota. Said parcel contains 45.770 acres, more or less; and

WHEREAS, said property is no longer going to be developed in accordance with said Initial Development Plan for the reason that the original Petitioner has notified the City and Commerford Ranch (Developer) that it is not proceeding with the subject Initial Development Plan and therefore, the variance associated with such Plan is no longer necessary; and

WHEREAS, Owner hereby waives any rights provided to him through the variance and hereby consents to the withdrawal of the subject variance by the City of Rapid City. As such, Owner respectfully requests and City of Rapid City acknowledge and agree that such variance shall be withdrawn effective the date of this agreement which shall also operate to rescind the WORP thereby relieving owner or any subsequent owners of any obligations or waivers specific to said WORP regarding subject property; and

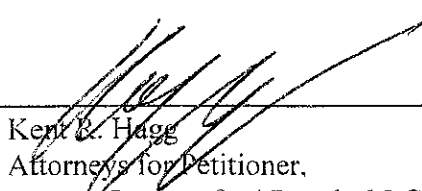
WHEREAS, it is anticipated Commerford Ranch, LLC will sell the property forthwith and a new developer May submit a revised Initial Development Plan and move for amendment to the above referenced Initial Development Plan accordingly;

NOW THEREFORE, City hereby grants Petitioner's request for the City to void, nullify and set aside the subject Agreement Waiving Right to Protest dated February 13, 2006 for the reasons stated herein and for the reason that at such time as a new developer moves to amend the Initial Development Plan #05PD077 and submits an amended Plan and requests variance(s) necessary for the completion of said Plan, that a new Agreement Waiving Right to Protest may be required at that time.

Respectfully submitted this 5th day of September, 2006.

WHITING HAGG & HAGG, LLP

By: _____


Kent E. Hagg
Attorney for Petitioner,
Commerford Ranch, LLC

601 West Boulevard
P.O. Box 8008
Rapid City, SD 57709-8008
(605) 348-1125

Petition granted and approved by the City Council, City of Rapid City, South Dakota on this _
__ day of _____, 2006.

MAYOR:

FINANCE OFFICER:

JAMES SHAW

JAMES PRESTON