



CITY OF RAPID CITY

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MEMORANDUM

TO: Mayor Sam Kooiker
Common Council
Pauline Sumption, Finance Officer
Barb Garcia, Community Development Manager

FROM: Allison Marsland, Assistant City Attorney 

DATE: February 24, 2012

RE: Satisfaction of Mortgage Instruments

In 1972, the Neighborhood Loan Restoration Program (“NRLP”) was instituted by the City. Under the program, the City uses Community Development Block Grant funding to grant both zero percent (0%) forgivable loans and low-interest amortized loans to applicants meeting certain household size to income ratio requirements. At some point in time, a standard practice was implemented of having the Mayor and Finance Officer sign satisfaction of mortgage instruments without sending the satisfaction through committee and Council. SDCL 9-1-5 requires Common Council authorization in order for the Mayor and Finance Officer to sign “contracts and other instruments.” *Id.*

In legal terms, a satisfaction of mortgage is an “instrument,” and SDCL 44-3-8 requires a satisfaction to be delivered to the debtor “[w]ithin thirty days. . .” *Id.* Normally, the City’s legislative cycle does not present a problem in this regard. However, when a mortgagor makes written demand for a satisfaction, the City as the lienholder must “[e]xecute and deliver to the debtor a sufficient sworn satisfaction to cancel the lien or any record thereof” within ten days. *Id.* In instances in which a NRLP mortgagor has satisfied his or her mortgage and makes a written request for a satisfaction, depending on the timing of the request, the City potentially would not be able to meet the ten-day time-frame required by SDCL 44-3-8. This issue may be resolved by delegating to the Mayor and Finance Officer the authority to sign NRLP satisfaction of mortgage instruments. Delegation of authority in this regard is permitted under SDCL 9-1-5.

The "Resolution Regarding Satisfaction of Mortgage Instruments Issued by the City of Rapid City" being brought forward rectifies both issues outline above. First, the resolution ratifies all previously executed satisfaction of mortgage documents. Second, the resolution delegates to the Mayor and Finance Officer the authority to sign all future satisfaction of mortgage instruments without additional review and authorization by the Common Council.

Staff recommendation is to authorize the Mayor and Finance Officer to sign the Resolution Regarding Satisfaction of Mortgage Instruments issued by the City of Rapid City.