

101 EAST 38TH STREET
SIOUX FALLS, SD 57105



PHONE: (605) 339-3939
FAX: (605) 339-3940

HUGHES LAW OFFICE

July 12, 2024

Via Email Only

joe@schoenbecklaw.com

Joe Erickson
SCHOENBECK & ERICKSON, PC
1200 Mickelson Dr., STE. 310
Watertown, South Dakota 57201

Re: Our File No. 4816-228 / Grant Park Capital, LLC

Dear Joe:

The attached, undated correspondence and check from Mr. Hefty were found on July 2, 2024, in the drop box of the pay slot at City Hall which is designated for payment of municipal utility bills.

The City assumes that the \$25,000 check payable to the City of Baltic from Grant Park Capital LLC corresponds to Section 1.04(a) of the Settlement Agreement between our respective clients. The City will deposit those funds expressly on the condition that the City is not thereby waiving any of its rights and obligations in connection with the Settlement Agreement, and otherwise by applicable law, with respect to Grant Park Capital LLC.

Specifically, by way of example and not in limitation, Mr. Hefty's letter claims that the City is in default of the Settlement Agreement, in that the City "has not allowed the detention pond to be built in one of the locations described in the Settlement Agreement."

Section 1.01 of the Settlement Agreement states that your client's intention was to have a completed and operational detention pond within 120 days from approval of the Settlement Agreement, or October 28, 2023. Your client has never applied for a building permit to construct a detention pond at any location. Consequently, there is not now and never has been any building permit application for the City to review, and the responsibility for this delay lies squarely at the feet of your client. Your client has provided no explanation as to the reasons for the long delay in construction despite the duty in Section 1.01 of the Settlement Agreement to do so. The process of applying for a building permit is simple and straightforward, and your client has undoubtedly applied for numerous building permits at its multiple facility locations in South Dakota and other states as well.

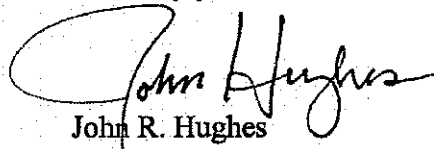
Joe Erickson
July 12, 2024
Page 2

Mr. Hefty's letter further claims that the City is in default of the Settlement Agreement in that the City has not "expeditiously accepted the development." That claim misstates the terms of the Settlement Agreement. Section 1.06 of the Settlement Agreement provides for a mutual covenant that, "the parties will proceed expeditiously to complete this process." (Emphasis added).

Section 1.06 provides that, "the process of acceptance shall be performed pursuant to generally accepted engineering standards and practices." It is the City's position that your client refuses to follow generally accepted engineering standards and practices and persists in a course of conduct as if there were no such requirements.

In summary, your client has failed to initiate the basic administrative permitting process required for your client to construct the detention pond required by the Settlement Agreement at any location. Until and unless your client complies with the Settlement Agreement, the ordinances and regulations of the City of Baltic, and generally accepted engineering standards and practices, there is nothing for the City to act upon.

Sincerely yours,



John R. Hughes

Attachment
c: Mayor and City Council